BellSouth Corporation
Suite 900
1133-21st Street, N.W.
Washington, DC 20036-3351

kathleen.levitz@bellsouth.com

Kathleen B. Levitz
Vice President-Federal Regulatory

202 463 4113
Fax 202 463 4198

October 17, 2003

Ms Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Re: CC Docket No. 95-116

Dear Ms Dortch:

This is to inform you that on October 16, 2003, I met with Christopher Libertelli, Senior Legal Advisor to Chairman Powell. The purpose of this meeting was to discuss why the Commission should not grant pending CTIA petitions for declaratory ruling relating to intermodal porting issues. The content of the attached documents formed the basis for that presentation.

In accordance with Section 1.1206, I am filing this notice electronically and request that you please place it in the record of the proceeding identified above. Thank you.

Sincerely,

Kathleen B. Levitz

Kathleen B. Levitz

Attachments

cc: Christopher Libertelli

BellSouth Presentation on Issues Relating to Implementation of WLNP

October 16, 2003

History of WLNP in CC Docket 95-116

- 1996: 1st R&O imposed LNP obligation on both wireline and wireless carriers
- 1997: 2nd R&O adopted technical and operational rules governing LNP for wireline carriers
- 1998-2000: Three NANC Report to FCC – each indicating the industry cannot reach consensus on intermodal porting issues
- 1H2003:CTIA files petitions for clarification of technical and operational rules governing LNP between wireline and wireless carriers; WCB issues Public Notices seeking comment on the petitions, but does not publish in Federal Register

2nd R&O – Addressed the Scope of the LNP Obligation

- FCC adopts rule defining technical and operational standards governing wireline LNP obligations based on 1997 NANC Report. Under § 52.26(a) of the the Commission's Rules:
  - Wireline carriers porting obligation is limited to within the rate center
    - Wireline service providers assign customers a TN associated with the rate center within which the customer is located
    - When a competitor requests that a customer's TN be ported to its network, the competitor will not permit the customer to retain that TN if the customer subsequently moves from the rate center associated with that TN
  - The interval for porting numbers should be no more than 4 days:
    - 1 day for Firm Order Completion (FOC)
    - 3 days to complete the actual port.

2nd R&O on WLNP

- The Commission:
  - "recognize[d] that it will probably be necessary to modify and update the current local number portability standards and procedures in order to support wireless number portability
  - directed the NANC to develop standards and procedures necessary to provide for CMRS provider participation in local number portability
  - directed NANC as soon as possible to to make and to present to the Commission recommendations for such modifications to the various technical and operational standards as necessary for CMRS providers to implement number portability efficiently and to allow CMRS providers to interconnect with a wireline number portability environment. (¶¶ 91-92)

October 2000 Phase II NANC Report on LNP

- The Report indicated that the NANC was unable to reach consensus on:
  - The rate center issue
  - The porting interval for intermodal ports.
- The Report identified potential ways to resolve the rate center issue:
  - Require assignment of NXXs to WSPs on a rate center basis and require assignment of TNS to wireless customers based on their billing location
  - Align local service areas between wireline & wireless carriers
  - Require both categories of carriers to adopt the same rating methods
  - Defer WLNP until state commissions order location portability beyond the rate center, NPA boundary, state and LATA
  - Limit intermodal portability to fixed location/non-roaming wireless services where the WSP has agreed to adopt wireline numbering assignment and portability rules
  - Do not require intermodal portability

CTIA Petitions

- Petition I requested a declaratory ruling that
  - wireline carriers have an obligation to port their customers' numbers to a CMRS provider whose service area overlaps the wireline carrier's rate center
  - A wireline carrier's obligation to port numbers requires a service-level porting agreement, and not an interconnection agreement
- Petition II requested a declaratory ruling that
  - Wireline carriers must complete intermodal ports within 2 and ½ hours

CTIA's petitions should be rejected on legal grounds

- CTIA's petition requests would clearly modify wireline carriers' existing obligations under the Commission's rules
  - With such "change[s] to the rules of the game" more than a clarification has occurred.
  - A new rule that works a substantive change in prior regulations is subject to APA rulemaking requirements of the notice and comment.
  - In this case, such notice and comment has not occurred

CTIA's petitions should also be rejected on policy grounds

- Granting the requested expansion of porting obligations requested by CTIA would place wireline carriers at a significant competitive disadvantage
  - Wireline carriers, ILECs and CLECs alike, would be unable to compete for wireless customers holding TNs not associated with the customer's rate center location and could even lose the opportunity to win back customers who initially decide to port their TNs to a wireless carrier
- The FCC has repeatedly stated that its Policy Objectives for Numbering, which provide overarching principles for all NANP issues, include:
  - Administration of the NANP should not unduly favor one technology over another.
  - The NANP should be largely technology neutral
    - The relief CTIA requests on the rate center issue is not technology neutral

CTIA's petition should also be rejected on policy grounds – porting intervals

- CTIA consistently argues that its members should not be forced to comply with wireline industry practices and procedures
- The converse of this argument is equally compelling; moreover in this case, the wireline industry practice has been codified in the Commission's rules
- If the Commission concludes that the porting interval now specified in the rules should be modified, the Commission should:
  - direct NANC to identify the process changes required to change the interval;
  - modify the governing rules;
  - grant affected carriers a reasonable period to modify their OSS

CTIA's petition should also be rejected on policy grounds – porting agreements

- The nature of the agreement that defines both carriers' porting obligations should be determined by the carriers

- If the carriers already have a pre-existing interconnection agreement, it will be more efficient to modify that agreement to determine the carriers' porting obligations

Summary

- CTIA's petitions for declaratory ruling should be denied
- The Commission should immediately commence a rulemaking proceeding to resolve the intermodal issues such as the rate center and porting interval issues
  - To grant CTIA's petition would fail to comply with the Commission's obligations under the APA
  - To grant CTIA's petition would be inconsistent with the FCC's well-established policy of remaining technology neutral in resolving issues of competitive impact
  - The Commission needs to consider fully the ramifications of ultimately choosing to change the existing rules governing the scope of wireline carriers' obligations to port TNs – this can most effectively be done through a rulemaking, with the assistance of the NANC

BellSouth Corporation
Suite 900
1133-21st Street, N.W.
Washington, DC 20036-3351

herschel.abbott@bellsouth.com

Herschel L. Abbott, Jr.
Vice President -
Governmental Affairs

202 463 4101
Fax 202 463 4141

October 14, 2003

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

Re: CC Docket No. 95-116

Dear Ms Dortch:

Attached is a letter that I sent today to Chairman Michael Powell. Copies of that letter also went electronically to the Commissioners and FCC staff identified below. In accordance with Commission rules, I am filing with you electronically a copy of that letter and request that you place the letter in the record of the proceeding identified above. Please feel free to contact me if you should have any questions related to this filing.

Sincerely,

Herschel L. Abbott, Jr.

Attachment

cc: Chairman Michael Powell
Commissioner Abernathy
Commissioner Martin
Commissioner Copps
Commissioner Adelstein
Scott Bergman
Matthew Brill
Cheryl Callahan
Jared Carlson
Jeffrey Dygert
Sam Feder
David Furth
Dan Gonzalez
Christopher Libertelli
William Maher
Jennifer Manner
Carol Mattey
John Muleta
Barry Ohlson
Jessica Rosenworcel
Jennifer Salhus
Catherine Seidel
Pamela Slipakoff
Bryan Tramont
Sheryl Wilkerson
Jason Williams
Lisa Zaina

BellSouth Corporation
Suite 900
1133-21st Street, N.W.
Washington, DC 20036-3351

herschel.abbott@bellsouth.com

Herschel L. Abbott, Jr.
Vice President -
Governmental Affairs

202 463 4101
Fax 202 463 4141

October 14, 2003

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

Re: CC Docket No. 95-116

Dear Chairman Powell:

I am writing to you to express BellSouth's concern regarding the Commission's recent order responding to CTIA's requests for clarification of wireless-wireless porting issues.[1] Although the Commission took care to limit the scope of this order to wireless-to-wireless number porting obligations, the reasoning underlying some of the conclusions reached in that order, if extended to wireline-to-wireless porting obligations, could lead to outcomes inconsistent with law and sound policy. Of particular concern are two facets of the order: (1) the Commission's interpretation of the definition of "number portability" appearing in the Communications Act of 1934, as amended ("the Act");[2] and (2) its conclusion that porting intervals in excess of two and one-half hours could violate the reasonableness standard of Section 201 of the Act.[3] BellSouth urges the Commission to delay any decision to apply these conclusions in the context of intermodal porting until the Commission has fully considered, in a notice and comment rulemaking proceeding, the impact of such conclusions upon consumers, state commissions, and wireline and wireless carriers.

Porting Boundaries

A fundamental question the Commission has yet to answer in the context of intermodal porting is "what does the word 'local' in the phrase "local number portability" mean?" In paragraph 11 of the *Wireless Order*, the Commission has interpreted the term "number portability" to mean that "consumers must be able to change carriers while keeping their telephone number as easily as they may change carriers without taking their telephone number with them." This statement could be interpreted to require wireline carriers to implement location portability beyond the rate center. If applied to wireline customers,

---

[1] *Telephone Number Portability*; Carrier Requests for Clarification of Wireless Porting Issues, Memorandum Opinion and Order, CC Docket No. 95-11, FCC 03-237 (rel. Oct. 7, 2003) ("Wireless Order") Petition for Declaratory Ruling, *Telephone Number Portability*, CC Docket No. 95-116 ("January Petition"); and Petition for Declaratory Relief, *Telephone Number Portability*, , CC Docket No. 95-116 (May 13, 2003) ("May Petition").
[2] *Wireless Order* ¶ 11.
[3] *Wireless Order* ¶ 26.

this interpretation would represent a significant change in the Commission policy regarding the scope of number portability as set forth in the First Report and Order in CC Docket No. 95-116.[4] In that order. the Commission recognized that, today, wireline telephone subscribers must change their telephone numbers when they move outside the area served by their current central office, *i.e.*, their rate center.[5] The Commission declined to require wireline carriers to permit customers to keep their telephone numbers when they move outside of their current rate center because such a requirement would create consumer confusion and would "force[] consumers to dial ten, rather than seven, digits to place local calls to locations beyond existing rate centers."[6] The Commission noted that this customer confusion could be avoided, but only if "carriers, and ultimately consumers, would incur the additional costs of modifying carriers' billing systems, replacing 1+ as a toll indicator, and increasing the burden on directory operator and emergency services to accommodate 10-digit dialing and the loss of geographic identity." [7]

In 1996, the Commission concluded that to avoid consumer confusion and other disadvantages inherent in requiring location portability, it should be left to state regulatory bodies to determine whether to require wireline carriers to provide location portability.[8] The Commission reached this conclusion because of its recognition that rate centers and local calling areas "have been created by individual state commissions."[9] Thus application of the interpretation of "number portability" to wireline carriers would constitute a fundamental change, not only in the Commission's view of wireline carriers' porting obligations under the Act, but also in its view of which agency is best positioned to compel such a change. Such a significant shift in policy and regulation clearly requires a more complete justification than appears in the Wireless Order.[10] It is also difficult to believe that the Commission would reach such a decision without prior consultation with the state commissions about the effects on consumers in their states of such a policy shift.[11]

A decision to apply this interpretation to the wireline-to-wireless porting obligations on November 24, 2003 would also place wireline carriers at a significant competitive disadvantage and would thus be glaringly inconsistent with the Commission's numbering and competitive policies. On numerous occasions during the past few months, BellSouth representatives have spoken with FCC staff members about the issues relating to intermodal local number portability raised, *inter alia*, by the CTIA petitions

---

[4] *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, ¶ ¶ 181-185 (1996) ("First Report and Order").
[5] *Id.* ¶ 174.
[6] *Id.* ¶ 184.
[7] *Id.*
[8] *Id.* ¶. 186.
[9] *Id.*
[10] *See Penzoil Co. v. F.E.R.C.*, 789 F.2d 1128 (5th Cir. 1986) (agency's failure to consider all relevant factors and provide a reasoned basis for its decision may render an opinion arbitrary and capricious); *Greater Boston Television Corp. v. F.C.C*, 444 F.2d 841 (C.A.D.C. 1970) (agency must articulate with reasonable clarity its reasons for decision and identify the significance of crucial facts); *WAIT Radio v. F.C.C.*,418 F. 2d 1153 (C.A.D.C. 1969) (agency or commission must articulate with clarity and precision its findings and reasons for its decision). *See also Hanly v. Mitchell*, 460 F.2d 640 (2d Cir. 1972) (it is arbitrary and capricious for an agency not to take account of all relevant facts in making its determination).
[11] *See First Report and Order* ¶ 186; *Telephone Number Portability*, Second Report and Order, 12 FCC Rcd 12281, ¶ 28 (1997).

filed in January 2003 and May 2003.[12] BellSouth has explained why the Administrative Procedure Act requires that, before the Commission changes either the scope of wireline carriers' porting obligations or the technical and administrative standards that currently define those obligations (which are codified in Section 52.26(a) of its rules), the Commission conduct a further rulemaking proceeding.[13] BellSouth has described the difference between the local calling area and telephone number assignment policies of wireline and wireless carriers, the role of state regulators in defining the former's policies, and the concomitant competitive disadvantage that the Commission's adopting CTIA's proposal would impose on wireline carriers.

BellSouth's recent written and oral presentations were neither the first presentations of these issues to the FCC,[14] nor even the first in which BellSouth raised these issues.[15] Over five years ago, the North American Numbering Council ("NANC") explained to the Commission that significant policy questions had to be addressed before the Council could determine the changes to technical and administrative rules governing wireline portability necessary to bring wireless carriers into the portability environment.[16] In 1998 and again in its 2000 Report on Wireless LNP issues, the NANC described the issues arising because of the differences in the way wireless and wireline carriers received and assigned numbering resources to their customers and asked the Commission for the policy guidance NANC needed to complete the task of "wireline-wireless integration."[17] Without endorsing any of them, the NANC also included several alternatives that its LNPA Working Group has identified as potential alternative methods to achieve parity from an end user's perspective between his ability to port from wireline to wireless and his ability to port from wireless to wireline.[18]

The issues arise because incumbent local exchange carriers ("ILECs"), unlike wireless carriers, have historically used the rate center architecture to determine whether a call is a local or a toll call for which they will impose either access charges or intraLATA toll charges. In order to distinguish between a customer's local and toll calls, the ILEC assigns that customer a telephone number associated with the rate center in which the customer resides; if the customer moves from the rate center, the ILEC assigns the customer a new telephone number associated with the rate center of his new location. When wireline local number portability was implemented in 1997, the Commission codified the NANC recommendation that all wireline competitors observe the rate center limitation on porting that the ILECs had historically observed. This meant that all

---

[12] *See, e.g,,* Ex Parte Letters from Kathleen B. Levitz, BellSouth, to Marlene H. Dortch, FCC, CC Docket No. 95-116 (May 1, 2003, July 23, 2003, Sept. 5, 2003, Sept. 9, 2003). The January CTIA petition asked the Commission to require wireline carriers to honor porting requests from wireless carriers with footprints covering the wireline carrier's rate center even if the wireless carrier had no numbering resources associated with that rate center. The May petition requested that the Commission require that wireline carriers complete requested ports within two and one-half hours rather than the four days now required by Commission rule.

[13] *See* Ex Parte Letter from Kathleen B. Levitz, BellSouth, to Marlene H. Dortch, FCC, CC Docket No. 95-116 (Sept. 30, 2003).

[14] *See* North American Numbering Council ("NANC"), LNPA Working Group Report on Wireless Integration (May 8, 1998) ("NANC 1st Report"); NANC, LNPA Working Group 3d Report on Wireless Wireline Integration (Sept. 30, 2000) ("NANC 3d Report").

[15] *See* Ex Parte Letter from Kathleen B. Levitz, BellSouth, to Marlene H. Dortch, FCC, CC Docket No. 95-116 (Dec. 4, 2002).

[16] *NANC 1st Report*, Appendix C.

[17] *NANC 3d Report* at 18-19.

[18] *NANC 3d Report* at 18-19.

wireline local service providers would obtain numbering resources for each rate center in which they competed, use numbering resources associated with a rate center only for their customers located in that rate center, and assign their customers moving to a new rate center a new telephone number drawn from numbering resources associated with that new rate center. Thus, under the existing rules,[19] service provider portability does not extend beyond the rate center. Wireless carriers, however, do not obtain numbering resources for every rate center within their service footprint. They also do not adhere to a policy of assigning each of their customers a telephone number associated with that customer's billing location. The result is that a customer living in rate center A may have a number for his wireless phone associated with rate center B, which may not lie even in the same geographic area code as rate center A.

If the Commission applies the *Wireless Order*'s interpretation of number portability, the mismatch described in the preceding paragraph will prevent a wireline carrier from being able to offer that wireless customer a competitive alternative to his wireless service that does not require a number change. This mismatch will also prevent the wireline carrier from being able to win back a customer located in rate center A who ports his telephone number to a wireless carrier and then moves to rate center B because the customer's telephone number would no longer be drawn from numbering resources associated with the rate center in which he is located.

In earlier ex partes, BellSouth has explained why the Administrative Procedure Act requires that the Commission issue a further notice prior to changing either the scope of wireline carriers' porting obligations or the technical and administrative standards, codified at Section 52.26(a) of the Commission's rules, governing the provision of local number portability.[20] We have described the mismatch between local calling areas and telephone number assignments. We have also described the competitive disparity that results if wireline carriers must port a customer's telephone number to any wireless carrier with a footprint in that customer's rate center. The recently released *Wireless Order*, however, compels BellSouth to make these points again.

With respect to the scope of the competitive disparity point, I note that, according to CTIA, wireless carriers have drawn numbering resources for only one out of every eight rate centers within their footprints.[21] Thus, applying the reasoning presented in the CTIA January petition and the Wireless Order's interpretation of number portability in the intermodal context, would mean that wireless carriers could compete for every one of the wireline carrier's customers located within the wireless carrier's footprint. The wireline carrier, however, could compete only for wireless customers in, at most, one out of eight of those rate centers. Moreover, as noted above, wireline carriers would be foreclosed from winning back any customer who ported his number to a wireless carrier and then moved to another rate center, while keeping his old number.

Such a decision would also be inconsistent with long-standing Commission policy objectives governing numbering resource administration, comity with the states, and competition. The Commission decisions affecting the North American Numbering Plan ("NANP") have consistently reflected its commitment that:

---

[19] 47 C.F.R. §52.26(a).
[20] *See* Ex Parte Letter from Kathleen B. Levitz, BellSouth (Sept. 30, 2003), to Marlene H. Dortch, FCC, CC Docket No.95-116 (Sept. 30, 2003); *Sprint v. FCC*, 315 F. 3d 369, 373 (D.C.Cir.2003).
[21] *January Petition* at 6.

Administration of the NANP should not unduly favor or disadvantage any particular industry segment or group of consumers.
Administration of the NANP should not unduly favor one technology over another. The NANP should be largely neutral.[22]

As I have explained above, a decision at this time to disassociate numbers from their historical roots would place wireline carriers at a significant disadvantage in their efforts to compete with wireless carriers. I fear, however, that Paragraph 11 of the *Wireless Order* could be read to support that inequitable and unsound conclusion.

Another relevant policy here -- a concern that has driven both federal and state commission decisions relating to numbering -- is the preference for seven-digit dialing[23] This policy would be a (perhaps unintended) casualty of extending wireline porting obligations beyond area code boundaries. The Commission may ultimately conclude that the public interest justifies the customer confusion and upheaval that will result from such a change, but to reach such a conclusion without prior consultation with state commissions and without a transition period during which consumer education could occur would be a significant departure from Commission precedent in the numbering arena and from the sensitivity it has shown to consumers and state commissions on the "front line" when such changes occur.[24]

Changing the rules governing wireline number portability obligations effective November 24, 2003 would deny the carriers and their customers a transition period that might significantly enhance intermodal porting. Such a transition would permit the industry to develop uniform processes to govern the new obligations. It would also permit individual carriers to make the necessary internal changes to their operation support systems in order to comply with the changed obligations. Eliminating such a transitional period would also be a noteworthy departure from the Commission's policy of giving industry segments affected by such changes a reasonable time to respond.[25] An obligation to

---

[22] *Administration of the North American Numbering Plan*, Report and Order, 11 FCC 2588, ¶ 15 (1995).

[23] *First Report and Order* ¶ 184; *see also* Remarks of Commissioner Kevin J. Martin at SEARUC Conference (June 3, 2002).

[24] *See Oh v. AT&T Corp.*, 76 F. Supp.2d 551 (D.N.J.1999); *New York and Public Service Comm'n of New York v. F.C.C.*, 267 F.3d 91 (2d Cir. 2001); *Numbering Resource Optimization, Petition of the California Public Utilities Commission for Wavier of the Federal Communications Commission's Contamination Threshold Rule*, Order, 18 FCC Rcd 8352 (1996). Commissioner Martin has stated that "giving States additional flexibility in how to address numbering issues is crucial, because it is the State Commissions, not this Commission, that feel the outcry from consumers when numbering conservation measures are adopted." Separate Statement of Commissioner Kevin J. Martin, *Petition of the Connecticut Department of Public Utility Control for Delegated Authority to Implement Specialized Transitional Overlays*, Memorandum Opinion and Order, 18 FCC Rcd 10936 (2003). Commissioner Copps has also emphasized the importance of coordination with the states, "number conservation is not an issue that the federal government can-or should-undertake on its own. We need to work closely with the state public utility commissions on numbering issues. States have an integral rule to play in number conservation efforts." Separate Statement of Commissioner Michael J. Copps, *Petition of the Connecticut Department of Public Utility Control for Delegated Authority to Implement Specialized Transitional Overlays*, Memorandum Opinion and Order, 18 FCC Rcd 10946 (2003).

[25] *See e.g.*, *Review of the Section 251 Unbundling Obligations of incumbent Local Exchange Carriers*, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978 (2003). The Commissions policy has been outlined as follows: It is entirely appropriate to fashion a transition period of sufficient length to enable competitive LECs to move

comply within days of the Commission's providing guidance would deny both wireline and wireless carriers the benefits of reaching industry consensus on how to standardize affected process flows. It would also deny wireline carriers a reasonable opportunity to make whatever changes to its network the compliance with the new standard would compel, because the same problems arise.

Porting Intervals

Paragraph 26 of the *Wireless Order* also states that porting intervals in excess of two and one-half hours could violate the reasonableness standard of Section 201 of the Act. The current rules require wireline carriers to complete ports within 4 days and incorporate process flows developed by NANC to achieve that standard. It is hard to believe that, until that rule is amended, a carrier in compliance with those rules could be found to be in violation of Section 201. BellSouth has consistently expressed its willingness to work with the industry to reduce the time required to complete ports. BellSouth believes, however, that until the Commission amends the existing rule in accord with the requirements of the Administrative Procedure Act and directs NANC to recommend changes to existing process flows so that carriers nationwide follow the same procedures to meet the new standard, there can be no legal basis for a conclusion that failure to meet a porting standard of two and one-half hours would constitute a violation of the Communications Act.

Conclusion

To maintain competitive parity between wireline and wireless carriers until the Commission can complete a full examination of all the advantages and disadvantages associated with changing the existing rules defining wireline carriers' porting obligations, BellSouth urges the Commission:

(1) to deny the request of CTIA that wireline carriers be required to provide wireline-wireless portability within wireless service areas without regard to whether the wireless carrier has other numbers in a particular rate center and that wireline carriers be required to complete ports to wireless carriers within two and one-half hours of a valid request.

(2) to require instead that wireline carriers port their customers' telephone numbers in accord with their obligations under Section 52.26(a). This would mean that, until the Commission amends Section 52.26(a) of its rules, a wireline carrier must port a customer's telephone number to a requesting wireless carrier only if the latter has numbering resources in the rate center in which the customer is located. We urge as well that the Commission

---

their customers to alternative arrangements and modify their business practices and operations going forward." *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic*, Order on Remand and Report and Order, 16 FCC Rcd 9151, ¶ ¶ 77-78 (2001) ("ISP Remand Order").
See also Sprint Corp. v. F.C.C., 315 F.3d 369 (D.C. Cir. 2003).

[26] BellSouth has made a business decision that it will port a customer's telephone number to a wireless carrier even if that carrier does not have numbering resources in the customers rate center and does not assign to its customers located in that rate center only telephone numbers drawn from that rate center. *See* Letter from Kathleen Levitz, Bell South, to William Maher, FCC, and John Muleta, FCC (Oct. 9, 2003).

> require that when a wireline customer who has chosen to port his telephone number to a wireless carrier moves out of the rate center associated with his telephone number, the wireless carrier must assign that customer a new telephone number drawn from numbering resources in the rate center to which he has moved.[27]

In accordance with Section 1.1206, I am filing this notice electronically and request that you please place it in the record of the proceeding identified above. Thank you.

Sincerely,

Herschel L. Abbott, Jr.

cc: Commissioner Abernathy
Commissioner Martin
Commissioner Copps
Commissioner Adelstein
Scott Bergmann
Matthew Brill
Cheryl Callahan
Jared Carlson
Jeffrey Dygert
Sam Feder
David Furth
Dan Gonzalez
Christopher Libertelli
William Maher
Jennifer Manner
Carol Mattey
John Muleta
Barry Ohlson
Jessica Rosenworcel
Jennifer Salhus
Catherine Seidel
Pamela Slipakoff
Bryan Tramont
Sheryl Wilkerson
Jason Williams
Lisa Zaina

BellSouth Corporation
Suite 900
1133-21st Street, N.W.
Washington, DC 20036-3351

kathleen.levitz@bellsouth.com

Kathleen B. Levitz
Vice President-Federal Regulatory

202 463 4113
Fax 202 463 4198

October 10, 2003

WRITTEN EX PARTE

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

Re: CC Docket No. 95-116

Dear Ms Dortch:

Attached is a letter that I sent electronically on October 9, 2003 to William Maher, Chief of the Wireline Competition Bureau, and John Muleta, Chief of the Wireless Telecommunications Bureau. Copies of that letter also went electronically to the Commissioners and FCC staff identified below. In accordance with Commission rules, I am filing with you electronically a copy of that letter and request that you place the letter in the record of the proceeding identified above. Please call me at 202.463.4113 if you have any questions related to this filing.

Sincerely,

Kathleen B. Levitz

Kathleen B. Levitz

Attachment

cc: William Maher
John Muleta
Chairman Michael Powell
Commissioner Kathleen Abernathy
Commissioner Michael Copps
Commissioner Kevin Martin
Commissioner Jonathan Adelstein
Bryan Tramont
Sheryl Wilkerson
Christopher Libertelli
Jennifer Manner
Matthew Brill
Jessica Rosenworcel
Daniel Gonzalez
Samuel Feder
Lisa Zaina
Barry Ohlson
Scott Bergmann
David Furth
Jared Carlson
Jennifer Salhus
Eric Einhorn
Cheryl Callahan
Pamela Slipakoff
Carol Mattey
Jeffrey Dygert
Jason William

BellSouth Corporation
Suite 900
1133-21st Street, N.W.
Washington, DC 20036-3351

kathleen.levitz@bellsouth.com

Kathleen B. Levitz
Vice President-Federal Regulatory

202 463 4113
Fax 202 463 4198

October 9, 2003

William Maher
Chief of the Wireline Competition Bureau
Federal Communications Bureau
445 12th Street, SW
Washington, D.C. 20554

John B. Muleta
Chief of the Wireless Telecommunications Bureau
Federal Communications Bureau
445 12th Street, SW
Washington, D.C. 20554

Re: Wireless Number Portability -- CC Docket 95-116

Gentlemen:

This letter responds to the letters of September 23, 2003 that AT&T Wireless Services, Inc. (AWS) and Verizon Wireless filed with the Commission regarding wireless local number portability (WLNP). The purpose of BellSouth's letter is to: 1) explain the communication plan developed by BellSouth to facilitate porting between BellSouth and wireless service providers; 2) present the status of inter-company testing between BellSouth and wireless service providers, and; 3) present the status of the coordination efforts between BellSouth and specific wireless providers.

1. Summary of BellSouth's Communication Plan for WLNP Implementation

In March 2003, BellSouth contacted its entire list of wireless customers to let each customer know that BellSouth would be ready to process carrier orders for Wireless Local Number Portability (WLNP) beginning Nov. 24, 2003, as required by the Federal Communications Commission in its July 26, 2002 order in CC Docket No. 95-116 (FCC 02-215). In that correspondence, BellSouth also indicated that it would support WLNP for CMRS providers through BellSouth's wholesale business unit, BellSouth Interconnection Services. The notification listed the URL for the WLNP Web site that BellSouth has established to address wireless porting issues:

http://www.interconnection.bellsouth.com/products/wireless/wlnp/index.html. BellSouth included the same information in an April 10, 2003 press release.

The BellSouth WLNP website became operational in March 2003. The purpose of the website is to describe to CMRS providers how BellSouth will interact with them to provide WLNP. The website includes information on BellSouth's WLNP ordering and provisioning process; WLNP porting scenarios; migration of Type 1 numbers; steps a CMRS provider must take to prepare for porting; testing procedures and testing availability with BellSouth. The site reaffirms BellSouth's compliance with, the Commission's rules that codify industry standards and intervals for wireline number portability for all wireless ports that involve a BellSouth wireline number. BellSouth has continued to update the website to include new information as it becomes available. For example, in August 2003 BellSouth updated the website to include a step-by-step guide for establishing an automated ordering interface with BellSouth.

In April 2003, BellSouth initiated a second direct mailing to officer level executives of our CMRS provider customers that reiterated points made in the March 2003 letter. BellSouth emphasized that it would adhere to wireline porting processes and flows based on national agreements at the NANC's Local Number Portability Administration Working Group to support all wireless porting scenarios. The notice also reminded all CMRS providers that they must independently establish an account with NeuStar, the WLNP Administrator managing the Number Portability Administration Center (NPAC). NeuStar maintains the NPAC database containing all information required for correct call routing when a customer changes from one service provider to another. Finally, the letter recommended that each CMRS provider contact its BellSouth account executive and visit our WLNP website for additional information.

In May 2003, BellSouth sent to each of our CMRS provider customers a letter outlining the available Local Service Request (LSR) process and electronic ordering interface options. The letter noted that CMRS providers must submit its LSRs to BellSouth's Local Carrier Service Center (LCSC) either via FAX or via electronic ordering interface. The letter further listed the ordering interfaces and identified those interfaces that must be tested prior to submitting an order. Finally, the letter explained that BellSouth Interconnection Services would offer testing for ordering interfaces and fee-based training on the use of both BellSouth's Local Exchange Navigation System (LENS) interface and the LSR form.

In July 2003, BellSouth informed our CMRS provider customers of the challenges posed by porting numbers associated with Type 1 interconnection arrangements and recommended that CMRS providers migrate their Type 1 numbers to Type 2 interconnection arrangements[1] prior to November 24, 2003. We presented various options for migrating Type 1 numbers and recommended that each CMRS provider customer contact its BellSouth wireless account team. Migration via disconnect, code

[1] The Type 1 interconnection is at the Point of Interface (POI) of a trunk between a wireless service provider (WSP) switch and a local exchange carrier (LEC) end office switch. A key point about telephone numbers that are used in the Type 1 interconnection arrangements is that they reside in the LEC switch as opposed to the WSP switch. Wireless telephone numbers that use Type 2 Wireless Interconnection Trunks actually reside in the wireless switches

transfer memo or pooling techniques may be done prior to November 24, 2003. Migration via porting may be completed after November 24, 2003. BellSouth is currently cooperating with sixteen CMRS providers that have elected to migrate their Type 1 numbers from Type 1 trunks to Type 2 trunks.

In September 2003, BellSouth launched instructor-led training classes to help CMRS provider customers implement new WLNP processes. The training focuses on how to complete LSRs and submit them successfully via BellSouth's web-based LENS system. The two-day course is designed to provide order entry personnel and customer-appointed trainers with relevant background materials and instructions. BellSouth had previously announced that it also would work with customers to test and validate their TAG or EDI electronic ordering interfaces beginning October 19, 2003.

In addition to direct mail, BellSouth has made the following efforts to work with CMRS providers in anticipation of the implementation of WLNP in November 2003:

- BellSouth distributed the Spring 2003 and Fall 2003 editions of the Better Connections Newsletter, an electronic newsletter sent directly to CMRS providers. These editions included detailed information on BellSouth's processes for handling WLNP.

- BellSouth has also had one-on-one customer meetings with our largest CMRS provider customers for the specific purpose of addressing such issues as how these customers would implement WLNP; how they would work with BellSouth; and how BellSouth proposed to handle Type 1 number migration.

2. Status of Inter-Company Testing Between BellSouth and WSPs

Verizon Wireless, in its September 23, 2003 response to the FCC on the status of WLNP, states that BellSouth has not agreed to any testing dates. BellSouth disagrees with this statement. Although actual testing has not begun, BellSouth has communicated to its wireless customers (including Verizon Wireless) that we will begin testing electronic ordering interfaces with wireless service providers on October 19, 2003. This date was communicated to our wireless customers in June 2003. This date was the earliest that the new ENCORE[2] release that supports WLNP would be fully installed and ready to test. BellSouth communicated this date on its website, which further described the steps that a CMRS provider must take to schedule testing with BellSouth. BellSouth also sent letters to its CMRS provider customers that contained the same information.

CMRS providers may also elect to engage an independent service provider or service bureau to perform some or all aspects of completing and submitting wireline-number

[2] BellSouth's Local Operations Support Systems are collectively referred to as ENCORE. ENCORE includes the EDI and LENS interfaces through which LECs and now CMRS providers obtain pre-order information about BST customers and submit LSRs, among others. ENCORE systems are updated at scheduled intervals to resolve defects and add new features addressed by the Change Control Process. BellSouth and its LEC customers use a consensus process to determine the timing and prioritization of changes to ENCORE systems. Metrics are used to measure BellSouth's success in responding to change requests and in implementing changes approved via the Change Control Process.

porting requests to BellSouth. Our Software Vendor Process (SVP) is designed to assist software vendors during their development of pre-order and/or firm order interface applications software and services for CMRS providers. BellSouth is presently scheduling testing with software vendors acting on behalf of several CMRS providers. Since BellSouth has received a letter of agency from an independent service bureau that is acting on behalf AWS, BellSouth would expect AWS's software vendor to contact BellSouth to schedule testing as other vendors are currently doing.

BellSouth has communicated openly and frequently with all CMRS providers about when testing can be done with BellSouth and how to schedule testing with BellSouth. CMRS providers and software vendors acting on their behalf are in the process of scheduling testing with BellSouth that will begin October 19th. To schedule testing with BellSouth, Verizon Wireless should contact BellSouth, just as other CMRS providers are doing now.

3. Status of Coordination Efforts Between BellSouth and Specific CMRS Providers to Facilitate WLNP

In its September 23, 2003 letter, AWS states that it has made extensive efforts to coordinate with the major wireline carriers to facilitate porting including the "negotiations of intercarrier agreements for the establishment of business arrangements and intercarrier communications processes for LNP." In particular, AWS notes on page 6 of its letter to Mr. Muleta that BellSouth has had a "continual change of position on the form of the LNP agreement that it would negotiate." This statement is not true. BellSouth did not and does not believe a service level agreement such as the document proposed by AWS is required or necessary for the implementation of WLNP between wireless and wireline companies. Nevertheless, BellSouth has reviewed the document proposed by AWS. BellSouth's position remains the same, that when there currently exists an interconnection agreement between the wireline service provider and the CMRS provider, the interconnection agreement can and should be used to specify the terms under which LNP between the two service providers will occur.

On September 4, 2003 BellSouth sent to AWS language that we proposed be added to the existing BellSouth-AWS interconnection agreement to address WLNP. Our proposed language modification, which is attached to this letter, is straightforward and, in BellSouth's view, much simpler than the multi-page document that AWS submitted. The AWS proposed language might be necessary in situations where no agreement presently exists. In this case, however, because BellSouth has existing interconnection agreements with most wireless carriers in its service area, including AWS, interconnection agreements present a simpler, more efficient vehicle for defining the parties' obligations with respect to WLNP. Furthermore, because, under the Commission's current rules, the existing LSR process and the existing wireline intervals will be used for ports involving wireline telephone numbers, only minor modifications are needed to existing interconnection agreements.

Finally, on page 9 of its letter, AWS expresses concern about testing with wireline service providers in the absence of any agreement. BellSouth will test with CMRS providers, or their software vendors, even in the absence of an amended interconnection agreement.

In summary, BellSouth would like to reiterate the following points:

- Through our carrier notifications and our WLNP website, BellSouth has been assertive in its efforts to give CMRS providers the necessary information needed to assure successful implementation of intermodal porting on November 24, 2003.
- Absent Commission permission to do so, BellSouth will not limit a CMRS provider's ability to port a wireline customer's telephone number to those rate centers within which that CMRS provider has numbering resources, even though this places BellSouth at a significant competitive disadvantage. We urge, however, that the FCC examine this issue, one that was first identified and brought to the Commission's attention over 5 years ago, by initiating a new rulemaking proceeding on the "disparity" issue and defer intermodal porting until the FCC addresses this and related issues.
- BellSouth is adhering to the wireline porting processes, flows and intervals as originally adopted by NANC and subsequently codified by the FCC in Section 52.26(a) of its rules.
- BellSouth will test with CMRS providers beginning October 19th on a first come, first served basis;
- A Service Level Agreement (SLA) is not needed when the wireline service provider and the wireless service provider have an *existing* interconnection agreement. A SLA may be appropriate in situations where no current agreement exists.

I am filing a copy of this letter and its attachments electronically with the Commission's Secretary and have requested that she place it in the record of this proceeding. I hope that you will call me at 202.463.4113 if you have any questions related to this letter.

Sincerely,

Kathleen Levitz

Attachment

cc: Chairman Powell
Commissioner Martin
Commissioner Copps
Commissioner Adelstein
Commissioner Abernathy
Dan Gonzalez
Sam Feder
Barry Ohlson
Lisa Zaina
William Maher
Carol Mattey
Cheryl Callahan
Eric Einhorn
Jennifer Salhus
Pamela Slipakoff
Jeffrey Dygert
John Muleta
Jared Carlson

Scott Bergmann
Jessica Rosenworcel
Jason Williams
Jennifer Manner
Matthew Brill
Bryan Tramont
Christopher Libertelli
Sheryl Wilkerson

XII. Local Number Portability

A. The parties agree that the Industry has established Local Routing Number ("LRN") technology as the method by which Local Number Portability ("LNP") will be provided in response to FCC Orders in Docket 95-116.

B. The Parties agree to provide LNP as required by relevant FCC orders, within and between their respective networks no later than any revised deployment schedule established by the FCC under Part 52 of the FCC's Rules (47 CFR Part 52), or in other applicable FCC orders and rules.

C. Industry guidelines shall be followed regarding all aspects of porting numbers from one carrier to another, including, but not limited to, NANC Local Number Portability Interservice Provider Operation Flows.

D. The Parties shall, as required by FCC orders, disclose upon request any technical limitations that would prevent LNP in any connecting office within the most current MSA to which they provide service.

E. Prior to November 24, 2003, the Parties will work together to migrate telephone numbers assigned to Type 1 trunks in 10K or 1K blocks from BellSouth's switch to the wireless service provider's switch. After November 24, 2003, Parties will cooperate to migrate numbers assigned to Type 1 trunks in blocks of less than 100 to the wireless service provider's switch. This may include LERG reassignment, transfer of ownership of a block, or porting of individual numbers.

F. A telephone number can only be ported from a wireline carrier to a wireless carrier if the rate center associated with the NPA-NXX is within the wireless provider's license area. A telephone number can only be ported from a wireless carrier to a wireline carrier if the customer's service address is within the rate center associated with the customer's NPA-NXX, as approved by the appropriate state regulatory agency.

G. Both Parties agree to work expeditiously to resolve any issues associated with porting a customer between the two Parties. Before either Party reports a trouble condition, that Party must first use reasonable efforts to isolate the trouble to the other Party's actions or facilities.

H. The Local Number Portability (LNP) Bona Fide Request (BFR) is a process that both wireline and CMRS carriers shall use to request that LNP be deployed in a Metropolitan Statistical Area (MSA) beyond the 100 largest MSAs in the country. As and when required by FCC orders or rules, the Parties will ensure that all switches in the FCC's most current Top 100 MSA list are LNP

capable. As permitted by FCC orders or rules, a BFR may be used to request LNP in any MSA outside the FCC's most current list.

I. Transaction fees associated with wireline porting are as follows: for LSRs submitted to BellSouth via electronic ordering interface such as LENS, EDI, or TAG: $3.50 per LSR. For LSRs submitted to BellSouth via FAX: $ 19.95 per LSR. Prior to ordering, Carrier will establish a Miscellaneous Billing Account with BellSouth. Transaction fees will be billed to this account

J. The parties agree to utilize the porting guidelines and processes as outlined on the BellSouth Interconnection web site, as amended from time to time. The WLNP Reference Guide [redacted], incorporated herin by reference, is accessible via the Internet at the following site: http://www.interconnection.bellsouth.com. The Parties agree to work cooperatively to implement changes to LNP process flows ordered by the FCC or as recommended by standard industry forums addressing LNP.

BellSouth Corporation
Suite 900
1133-21st Street, N.W.
Washington, DC 20036-3351

kathleen.levitz@bellsouth.com

Kathleen B. Levitz
Vice President-Federal Regulatory

202 463 4113
Fax 202 463 4198

October 10, 2003

WRITTEN EX PARTE

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

Re: CC Docket No. 95-116

Dear Ms Dortch:

Attached is a letter that I sent electronically on October 9, 2003 to William Maher, Chief of the Wireline Competition Bureau, and John Muleta, Chief of the Wireless Telecommunications Bureau. Copies of that letter also went electronically to the Commissioners and FCC staff identified below. In accordance with Commission rules, I am filing with you electronically a copy of that letter and request that you place the letter in the record of the proceeding identified above. Please call me at 202.463.4113 if you have any questions related to this filing.

Sincerely,

Kathleen B. Levitz

Kathleen B. Levitz

Attachment

cc: William Maher
John Muleta
Chairman Michael Powell
Commissioner Kathleen Abernathy
Commissioner Michael Copps
Commissioner Kevin Martin
Commissioner Jonathan Adelstein
Bryan Tramont
Sheryl Wilkerson
Christopher Libertelli
Jennifer Manner
Matthew Brill
Jessica Rosenworcel
Daniel Gonzalez
Samuel Feder
Lisa Zaina
Barry Ohlson
Scott Bergmann
David Furth
Jared Carlson
Jennifer Salhus
Eric Einhorn
Cheryl Callahan
Pamela Slipakoff
Carol Mattey
Jeffrey Dygert
Jason William