

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
Franklin Telephone Company, Inc.	)	
Inter-Community Telephone Company, LLC, and	)	
North Central Telephone Cooperative, Inc.,	)	
	)	
Petitions for Waiver of Section 52.23(c)	)	
of the Commission's Rules	)	
_____	)	

**SPRINT REPLY COMMENTS**

Sprint Corporation, on behalf of its wireless division, Sprint Spectrum L.P., d/b/a Sprint PCS ("Sprint"), submits this reply to the comments filed by certain rural local exchange carriers ("RLECs") in support of the petitioners' request for a waiver of their statutory LNP obligation.<sup>1</sup>

**I. MOST OF THE RLEC ARGUMENTS ARE BASED ON FACTUAL INACCURACIES**

Some of the arguments made by the RLEC commenters are based on core factual inaccuracies.

A. Wireless carriers are not asking RLECs to provide location portability. Some of the RLEC commenters contend that wireless carriers want them to provide location portability rather

---

<sup>1</sup> See Alabama Rural Local Exchange Carrier Comments ("Alabama RLECs"); Leaco Rural Telephone Cooperative, Inc. ("Leaco"); TCA, Inc. – Telecom Consulting Associates Comments ("TCA"); and Valley Telephone Cooperative, Inc. ("Valley").

than service provider portability.<sup>2</sup> This argument is in error, for the RLECs confuse location portability with the terminal mobility that is inherent in mobile wireless services.

FCC rules define service provider portability as the ability of customers to “retain existing telecommunications numbers . . . when switching from one telecommunications service to another.”<sup>3</sup> The Commission has already ruled that a LEC customer wanting to port his/her number to a wireless service constitutes service provider portability: “We regard switching among wireline service providers and broadband CMRS providers, or among broadband CMRS providers, as changing service providers” and thus falling within the definition of service provider portability.<sup>4</sup>

Moreover, when NANC’s Wireless Wireline Integration Task Force (“WWITF”) extensive examined LEC-wireless porting, there was industry consensus that:

Porting from a wireline service provider to a wireless service provider is permitted as long as the subscriber’s initial rate center is within the WSP’s [Wireless Service Provider’s] service area . . . With terminal mobility the [wireless] subscriber can be physically located anywhere.<sup>5</sup>

This Report provided the example where a “[w]ireline subscriber with telephone number 214-789-2222, located in RC [Rate Center] 7, wishes to change to wireless service while remaining at

---

<sup>2</sup> See Alabama RLEC Comments at 2-4; Valley Comments at 4-7; Leaco Comments at 3-7; TCA Comments at 3.

<sup>3</sup> 47 C.F.R. § 52.21(o). This rule largely tracks the statutory definition of number portability. See 47 U.S.C. § 153(30).

<sup>4</sup> *First LNP Order*, 11 FCC Rcd 8352, 8443 ¶ 172 (1996). See also Letter from John Muleta, Chief, WTB, to John Scott, Verizon Wireless, CC Docket No. 95-116, DA 03-2190, at 3 (July 3, 2003) (“The Commission’s rules require porting between wireless and wireline carriers.”).

<sup>5</sup> NANC, *Local Number Portability Administrative Working Group Report on Wireless Wireline Integration* (May 8, 1998), Appendix D – Rate Center Issue, at 35 § 6.0 (“NANC Report”). This Report was submitted in the record on June 4, 1998. See *Public Notice*, Common Carrier Bureau Seeks Comment on NANC Recommendation Concerning Local Number Portability Administration Wireline and Wireless Integration, 13 FCC Rcd 17342 (1998); Letter from Alan C. Hasselwander, NANC Chairman, to A. Richard Metzger, Chief, Common Carrier Bureau, CC Docket No. 95-115 (May 18, 1998).

the same location.” The WWITF determined that, in this situation, “[p]orting would be permissible.”<sup>6</sup>

Indeed, the LEC industry *agreed* at the time that the LNP desired by wireless carriers was number portability under the Act and service provider portability under the FCC rules. The Wireline Position Paper states:

Currently available wireless-wireline porting methodologies proposed in the WWITF have met the criterion of rate center integrity within the technical limitations of LRN service provider portability.<sup>7</sup>

Thus, when industry examined the subject in detail, there was agreement among all industry segments that wireless carriers were *not* asking LECs to provide location portability and that LEC-wireless porting “is permitted” so long as the wireless carrier provides its mobile services at the same location where the LEC customer is currently receiving his/her LEC services. There is, therefore, no basis to the RLEC assertion that wireless carriers want RLECs to provide location portability or to impose on RLECs “a new *de facto* obligation . . . where none otherwise exists.”<sup>8</sup>

B. RLEC customers calling wireless customers with ported numbers will not receive “surprise toll charges” for calling numbers that “appear to be, and previously have been, local numbers.”<sup>9</sup> As Qwest has explained, LECs rate calls as local or toll by comparing the rate center association of the calling and called numbers:

---

<sup>6</sup> NANC Report, Appendix D, at 35 § 5.0, Scenario A. Likewise, the WWITF recognized that porting would be permitted where a “wireless subscriber, 972-234-4444, whose billing location is in RC A, wishes to change to wireline service provider while remaining at the same location.” *Id.*, Scenario C.

<sup>7</sup> *Id.* Appendix D – Wireline Position Paper, at 40 § II. B.3.

<sup>8</sup> Valley Comments at 1.

<sup>9</sup> See Valley Comments at 3. See also *id.* at 5; Leaco Comments at 5.

[E]ach 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.<sup>10</sup>

The Commission has similarly observed that under the system used “industry-wide,” LECs “rate calls by comparing the originating and terminating NPA-NXX codes.”<sup>11</sup>

Neither the telephone number nor its rate center association changes when the number is ported. Accordingly, if a call to a number is local today, the same call to the same number necessarily will remain local after the number is ported.<sup>12</sup> Similarly, if a call to a number is toll today, the same call to the same number necessarily will remain local after the number is ported. Thus, no RLEC customer will receive “surprise toll charges” in calling ported numbers, and no RLEC customer will “incur toll charges for what appear to be local calls,”<sup>13</sup> as Sprint has repeatedly explained.<sup>14</sup> Nor is there any basis to the RLEC concern that calls to wireless customers with ported numbers would “either be dropped or would have to be switched to the customer’s PICed IXC.”<sup>15</sup>

---

<sup>10</sup> Letter from Cronan O’Connell, Qwest, to Marlene Dortch, FCC Secretary, CC Docket No. 95-116, at 6 (Oct. 17, 2003).

<sup>11</sup> *Virginia Arbitration Order*, 17 FCC Rcd 27039, 27181-82 ¶ 301 (2002).

<sup>12</sup> Nor will wireless ported numbers change the dialing patters of LEC customers or involve the loss of seven-digit local dialing. If a LEC customer can dial a non-ported number with only seven digits, that LEC customer will continue to dial seven digits if the number is ported to a wireless carrier. Any LEC attempt to require its customers to dial additional digits in calling a wireless customer with a ported number would contravene the dialing parity mandate. *See* 47 U.S.C. § 251(b)(3); 47 C.F.R. § 51.207; *Second Local Competition Order*, 11 FCC Rcd 19392, 19429 ¶ 68 (1996) (“We reject USTA’s argument that the section 251(b)(3) dialing parity requirements do not include an obligation to provide dialing parity to CMRS providers. To the extent that a CMRS provider offers telephone exchange service, such a provider is entitled to receive the benefits of local dialing parity.”).

<sup>13</sup> Valley Comments at 8; Leaco Comments at 8.

<sup>14</sup> *See, e.g.*, Letter from Luisa Lancetti, Sprint, to William Maher, WCB Chief, and John Muleta, WTB Chief, CC Docket No. 95-115, at 1-2 (Oct. 21, 2003); Sprint Reply Comments, CC Docket No. 95-116, at 13-14 (March 13, 2003); Sprint Reply Comments, CC Docket No. 95-116, at 12-13 (June 24, 2003).

<sup>15</sup> Valley Comments a 5; Leaco Comments at 5.

C. RLECs may not impose unilaterally preconditions on their porting obligations that are not contained in the statute or in FCC rules. The RLEC commenters suggest they can exempt themselves from providing LNP if the requesting competitive carrier has not negotiated or arbitrated an interconnection agreement with them or if the requesting carrier does not directly interconnect with them in their exchange.<sup>16</sup> The simple response is that the Commission has already rejected these arguments.<sup>17</sup>

Moreover, Congress has determined that LECs should be excused from providing LNP for one reason only: technical infeasibility.<sup>18</sup> Sprint, as the nation's fifth largest ILEC, can confirm that LEC-wireless porting is technically feasible. Indeed, the three pending waiver petitions confirm not only that LNP is technically feasible, but also that the costs of acquiring needed LNP upgrades are relatively modest.

In addition, existing FCC rules specify only one precondition before a LEC must provide LNP: that it receive a specific request to provide LNP:

Beginning January 1, 1999, all LECs must make a long-term database method for number portability available within six months after a specific request by another telecommunications carrier in areas in which that telecommunications carrier is operating or plans to operate.<sup>19</sup>

Thus, the preconditions that the RLEC commenters seek to impose are authorized by neither the Communications Act nor the Commission's implementing rules.

---

<sup>16</sup> See Valley Comments at 2; Leaco Comments at 2.

<sup>17</sup> See, e.g., *TSR Wireless v. US WEST*, 15 FCC Rcd 11166 (2000), *aff'd Qwest v. FCC*, 252 F.3d 462 (D.C. Cir. 2001) (Absence of an interconnection contract does not relieve ILECs of the duties imposed upon them in Section 251(b) of the Act); *First LNP Reconsideration Order*, 12 FCC Rcd 7236, 7305 ¶ 121 (1997) ("[T]o provide number portability, carriers can interconnect either directly or indirectly as required under Section 251(a)(1).") (emphasis added).

<sup>18</sup> See 47 U.S.C. § 251(b)(2).

<sup>19</sup> 47 C.F.R. § 52.23(c).

The Commission ruled earlier this month that *wireless carriers* may not impose preconditions of the sort that the RLEC commenters intend to impose:

Section 52.31 of the rules provides that . . . , all CMRS carriers *must* provide a long term database method for number portability in switches for which another carrier has made a request for the provision of number portability. Nothing in the rules provides that wireless carriers must port numbers only in cases where the requesting carrier has numbering resources and/or a direct interconnection in the rate center associated with the number to be ported and wireless carriers may not demand that carriers meet these conditions before porting. Similarly, any agreements establishing terms for interconnection are also not required between wireless carriers.<sup>20</sup>

Sprint submits that this ruling applies with equal force to LEC-wireless porting. The technology (wires vs. wireless) a carrier uses in the “last mile” of its services has no relevance to the LNP requirement.

## **II. THERE IS NO BASIS TO GRANT ALL RLECS A BLANKET WAIVER OF THEIR LNP OBLIGATIONS**

Sprint appreciates that many RLECs may need more than six months to implement LNP – even though they have been on notice for seven years that they are required to provide LNP to wireless carriers upon receipt of a *bona fide* request. The problem Sprint has with the three petitioners is that they have refused to order, and continue to refuse to order, the LNP upgrades they need – despite the availability of a Commission cost recovery plan. This is not a situation where the petitioners could not meet the six-month deadline after making a good faith effort. Rather, this is a situation where the petitioners have made no effort to come into compliance with their statutory obligations.

---

<sup>20</sup> *Wireless Porting Order*, CC Docket No. 95-116, FCC 03-237, at ¶ 21 (Oct. 7, 2003)(emphasis in original).

The Commission must reject the RLEC commenter argument that it grant a blanket LNP waiver to all RLECs.<sup>21</sup> As the Commission noted earlier this week, waiver decisions involve “highly case-specific analysis – the applicant must demonstrate special circumstances that justify deviations from the applicable rules.”<sup>22</sup> Blanket waiver requests, the Commission has held, are especially inappropriate where the request is “very broadly defined and no future compliance date is suggested”:

Grant of such an open-ended waiver may result in certain portions of the public never receiving the benefits of [the] services [that the rule was designed to provide].<sup>23</sup>

Moreover, the Commission has previously denied an RLEC request for a blanket waiver of their statutory obligation to provide LNP, ruling that such “a blanket waiver is unnecessary and may hamper the development of competition in areas served by smaller and rural LECs that competing carriers want to enter”:

If, however, a competitor is interested in number portability in a particular switch operated by a rural or smaller LEC, and the LEC cannot demonstrate extraordinary circumstances justifying an extension of our deployment requirements, . . . we find no statutory basis for excusing such a LEC from its obligations to provide number portability.<sup>24</sup>

The demonstration that the RLEC commenters make for a blanket waiver is not persuasive. The facts presented by the three petitioners confirm that the cost of LNP upgrades is relatively modest, even for an RLEC with a small customer base.<sup>25</sup>

---

<sup>21</sup> See, e.g., Valley Comments at 7-9; Leaco Comments at 7-9 TCA Comments at 5.

<sup>22</sup> *E911 Phase II Waiver Reconsideration Order*, CC Docket No. 94-102, FCC 03-247 ¶ 18 (Oct. 21, 2003).

<sup>23</sup> *Caller ID Order*, 11 FCC Rcd 1743, 1756 ¶ 50 (1995).

<sup>24</sup> *First LNP Reconsideration Order*, 12 FCC Rcd 7236, 7302 ¶ 114, 7303 ¶ 116 (1997).

<sup>25</sup> Admittedly, there may be some RLECs where this is not true, and the waiver process is designed precisely for RLECs facing “extraordinary circumstances.” Sprint recognizes that waivers would be appropriate in those cases.

### III. CONCLUSION

For the foregoing reasons, Sprint respectfully requests that the Commission deny the waiver requests filed by the three petitioners and further deny the additional request of the RLEC commenters to grant all RLECs a blanket waiver of their statutory LNP obligation. Sprint would not oppose a waiver request if an RLEC orders LNP upgrades upon receiving a *bona fide* request and can demonstrate that the relief it requests is as “narrowly tailored as possible” and that it has put in place “a clear path to compliance.”<sup>26</sup> However, neither the three petitioners, nor the RLEC commenters, submit facts in support of this established waiver standard.

Respectfully submitted,

**SPRINT CORPORATION**



Luisa L. Lancetti  
Vice President, PCS Regulatory Affairs  
401 9<sup>th</sup> Street, N.W., Suite 400  
Washington, D.C. 20004  
202-585-1923

Scott Freiermuth, Attorney  
Sprint Corporation  
6450 Sprint Parkway  
Mail Stop: KSOPHIO414-4A325  
Overland Park, KS 66251  
913-315-8521

October 24, 2003

---

<sup>26</sup> See *E911 Tier III Stay Order*, CC Docket No. 94-102, FCC 03-241, at ¶ 17 (Oct. 10, 2003). See also *Sprint E911 Waiver Order*, 18 FCC Rcd 12543 at ¶ 17 (June 12, 2003) (“Sprint has also presented a clear path to full compliance.”).