

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

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| In the Matter of |) | |
| |) | |
| Telephone Number Portability |) | CC Docket 95-116 |
| |) | |
| YADKIN VALLEY TELEPHONE |) | |
| MEMBERSHIP CORPORATION |) | |
| |) | |
| Petition for Limited Waiver and Extension of |) | |
| Section 52.23(c) of the Commission's Rules |) | |
| |) | |

To: Chief, Wireline Competition Bureau

**PETITION FOR LIMITED WAIVER AND EXTENSION
OF TIME TO PORT NUMBERS TO WIRELESS CARRIERS**

Yadkin Valley Telephone Membership Corporation ("Petitioner"), by its attorney, hereby requests a temporary waiver of Section 52.23(c) of the Commission's rules, and an extension of the November 24, 2003 date for accommodation of wireless local number portability ("WLNP") services. In particular, Petitioner seeks a temporary waiver of up to ninety days of the requirement that local exchange carriers ("LECs") who have received a request from a provider of Commercial Mobile Radio Services ("CMRS") to make available a long-term database method for number portability available within six months. As indicated below, Petitioner's request for additional Phase II relief is specific, focused, and limited in scope. Petitioner has undertaken concrete steps to come as close as possible to full compliance, has documented its efforts, and has a clear path to full compliance. This Petition is filed in compliance with the Commission's *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, CC Docket 95-116, FCC 03-284 (rel. November 10, 2003) ("*Intermodal MO&O*").

I. Background

Petitioner is a rural telephone company serving almost 33,000 access lines in a rural and mountainous area of western North Carolina. Petitioner reaches fewer than 10 subscribers per mile of facility. The largest town served by Petitioner, Yadkinville, NC, has a population of 1,026. A portion of Petitioner's service area is located in the Greensboro - Winston-Salem - High Point, North Carolina MSA, which is one of the largest 100 Metropolitan Statistical Areas (MSAs). Petitioner has received a request to implement number portability by November 24, 2003. In preparing to do so, Petitioner has encountered temporary obstacles and, for the reasons stated herein, Petitioner seeks additional time to complete the tasks necessary to implement WLNP services.

A. Deployment of WLNP

Petitioner has been diligent in pursuing the technology necessary to offer LNP, including WLNP, services having spent the past several months exploring means by which requests for porting will be accommodated. Petitioner has been successful in acquiring and installing, at significant expense, switch functionality features necessary for WLNP. In consultation with the firm of John Staurulakis, Petitioner has recently identified an administrative system that will be compatible with the existing system that Petitioner's subsidiary uses for porting numbers between other LECs and Petitioner's subsidiary, which is a competitive LEC. The new administrative system will facilitate the porting of numbers to and from wireless carriers. The estimated timeframe for installation and activation is within the next four to six weeks.

Petitioner has determined that it must complete three more major tasks in order to fully deploy WLNP. First, it must finalize negotiations for a Service Provider Agreement with

Neustar. A set of interrelated contracts will be necessary to establish methods and procedures for dealing with the Number Portability Administration Center (“NPAC”), likely including a Service Management System User Agreement, referencing a Regional Statement of Work and a Master Agreement. The numbering resource services documentation required for WLNP is more complex and voluminous than Petitioner had expected to encounter. All necessary contracts will likely take about another three weeks to complete.

Second, within the next four to six weeks, Petitioner expects to conclude negotiation of Service Level Agreements (“SLAs”) with CMRS carriers. Petitioner is in communication with the local wireless carriers to prepare for number porting. The contracts are individualized with each carrier; time is required to exchange contact and technical information and to customize terms of agreement. Each carrier with whom Petitioner is dealing will be made aware of the status of Petitioner’s WLNP capability, and each is expected to work efficiently with Petitioner to finalize the understanding of the terms under which porting will take place. Petitioner does not seek to deny or delay WLNP, or to specifically condition WLNP services on the signing of a comprehensive agreement for porting. Petitioner is thereby acting in manner consistent with the Commission’s directives announced in *Memorandum Opinion and Order*, CC Docket 95-116, FCC 03-237 (rel. October 7, 2003).

Third, Petitioner finds that when the WLNP system is ready to activate and the necessary agreements have been reached for number resource administration and wireless number exchange, the newly installed WLNP features must be tested before Petitioner can offer WLNP service to the public with a reasonable degree of reliability.

B. Special Circumstances Justify Temporary Waiver

Petitioner plans to complete all of the above-described tasks and to be ready to deploy WLNP within the next ninety days. The Commission has recognized that wireline carriers within the top-100 MSAs may require some additional time to prepare for implementation of intermodal portability. Petitioner has set forth herein its need for additional time to make modifications to its porting system to achieve technical readiness to port numbers to wireless carriers. Simultaneously, Petitioner is completing the paper work necessary to secure NPAC database and numbering support, and to achieve common understandings and information exchange with local CMRS providers.

Pursuant to guidelines set forth in *Intermodal MO&O*, para. 30, Petitioner has provided the Commission with “substantial, credible evidence that there are special circumstances that warrant departure from existing rules,” namely the requirement that wireline-to-wireless porting be initiated in the top-100 MSAs by November 24, 2003. Petitioner has already encountered and dealt with the challenges of acquiring equipment and software, designing a means of implementation, and financing the project. The final steps toward WLNP are delineated, and Petitioner has embarked upon a detailed path to compliance.

Petitioner has shown good faith to date in taking steps toward WLNP implementation as soon as they were technically feasible. Petitioner seeks authority to continue the process in a manner that will assure a smooth transition for its customers and for wireless subscribers in Petitioner’s local area, so that Petitioner may deploy an efficient and dependable wireless porting system as soon as technically and practicably possible.

Discussion

Generally, the Commission's rules may be waived when there is good cause shown¹ and "when special circumstances warrant deviation from the general rule, and such deviation will serve the public interest."² In the context of wireline-to-wireless number portability, the Commission has recognized that individual waiver requests that are "specific, focused and limited in scope, and with a clear path to compliance" may be granted where due to "technology-related issues" or "exceptional circumstances," a wireless carrier is unable to meet the established deadline.³ As explained below, Petitioner's request satisfies this standard.

Petitioner presents herein a waiver request that is specific, focused and limited in scope. The scope of the request is limited to Section 52.23(c) of the Commission's rules. Petitioner has made good faith efforts to comply with the rule by implementing those stages of the process that have been technically achievable to date, and seeks only a temporary waiver permitting additional time to complete the process of compliance.

III. Conclusion

For the reasons set forth above, Petitioner requests a temporary waiver of Section 52.23(c) of the Commission's Rules for up to ninety days. The public interest benefit in this case equals or exceeds that which the Commission has found in other instances to be sufficient for

¹ 47 C.F.R. § 1.3.

² Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990) citing WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

³ Intermodal MO&O, para. 30, citing WAIT Radio v. FCC, 418 F.2d 1153, 1158 (D.C. Cir. 1969).

waiver. Accordingly, Petitioner requests that a waiver and temporary extension of up to ninety days be granted as proposed.

Respectfully submitted,

**YADKIN VALLEY TELEPHONE
MEMBERSHIP CORPORATION**

By:  _____
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November 20, 2003

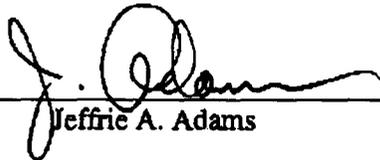
DECLARATION

I, Jeffrie A. Adams, hereby state and declare:

1. I am General Manager of Yadkin Valley Telephone Membership Corporation.
2. I am familiar with the facts contained in the foregoing petition, and I verify that those facts are true and correct to the best of my knowledge and belief, except that I do not and need not attest to those facts that are subject to official notice by the Commission.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 20th day of November, 2003.



Jeffrie A. Adams

CERTIFICATE OF SERVICE

I, Daniel Ladmirault, an employee in the law offices of Lukas, Nace, Gutierrez & Sachs, Chartered, do hereby certify that I have on this 20th day of November, 2003, sent by U.S. mail, first-class delivery, a copy of the foregoing Petition to the following:

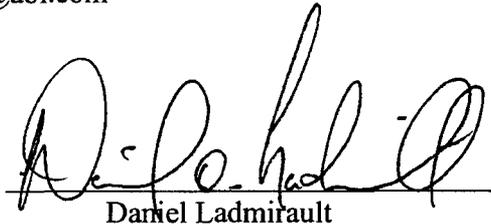
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