

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Numbering Resource Optimization |) | CC Docket No. 99-200 |
| |) | |
| Telephone Number Portability |) | CC Docket No. 95-116 |
| |) | |
| Petition of The Champaign Telephone Company |) | |
| For Limited Waiver and Extension of its |) | |
| Porting and Pooling Obligations |) | |
| |) | |

To: The Commission

PETITION OF THE CHAMPAIGN TELEPHONE COMPANY
FOR LIMITED WAIVER AND EXTENSION

The Champaign Telephone Company (“Champaign”), by its attorneys, and pursuant to Sections 1.3 and 52.23(e) of the rules and regulations of the Federal Communications Commission (“FCC” or “Commission”), requests a limited waiver and extension of the intermodal porting and pooling obligations, established by the Commission in its November 10, 2003 *Intermodal Order*.¹ Specifically, Champaign requests that the Commission clarify that its porting and pooling obligations are those of a carrier providing service outside of the top 100 Metropolitan Statistical Areas (“MSAs”) or, in the alternative and to the extent necessary, that the Commission waive and extend Champaign’s compliance deadline for implementing intermodal Local Number Portability (“LNP”) in its wireline service area until May 24, 2004.

¹ See generally *In re Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking* in CC Docket No. 95-116; FCC 03-284 (November 10, 2003) (“*Intermodal Order*”).

I. BACKGROUND

On November 10, 2003, the Commission issued its *Intermodal Order* that, *inter alia*, required wireline carriers located in the top 100 MSAs to be capable by November 24, 2003 of porting numbers to wireless carriers that do not have a point of interconnection or numbering resources in the rate center where the customer's wireline number is provisioned. Wireline carriers serving areas outside of the top 100 MSAs were given until May 24, 2004 to achieve such capability.²

Champaign is an independent, 100-year old telephone company serving 171 square miles of rural west-central Ohio with 12,000 access lines. Champaign is a rural telephone company as defined by the Communications Act of 1934, as amended ("the Act").³ Champaign provides local exchange service and intraLATA toll service to customers in Champaign County and a tiny sliver of Clark County. In addition, Champaign provides exchange access service to interexchange carriers ("IXCs"). All of these services are provided pursuant to tariffs. With the exception of the tiny sliver of Clark County, where Champaign serves a total of 17 customers, none of Champaign's telephone service area falls inside one of the top 100 MSAs.⁴

But for these seventeen Clark County customers, Champaign would not have to be ready to provide intermodal LNP by the November 24, 2003 deadline and would be treated like all other rural LECs operating outside of the top 100 MSAs. Accordingly, Champaign requests that the Commission waive and extend Champaign's porting and pooling compliance deadlines to

² *Intermodal Order* ¶ 29.

³ 47 U.S.C. §153(37).

⁴ Ironically, although Clark County was once considered part of the Dayton-Springfield, Ohio MSA, it is sufficiently rural that the most recent MSA rankings no longer include Clark County as part of the Dayton MSA. See <http://www.census.gov/population/estimates/metro-city/03mfips.txt>.

May 24, 2004 consistent with the deadline for carriers providing service outside of the top 100 MSAs.

II. ARGUMENT

A. The Commission Should Rule That Champaign's Obligations Are Those of a Carrier Providing Service Outside of the Top 100 MSAs

In establishing the November 24 intermodal portability deadline in its *Declaratory Ruling*, the FCC expressly noted that “many wireline carriers outside the top 100 MSAs may require some additional time to prepare for implementation of intermodal portability” and recognized the need for a “transition period [to] help ensure a smooth transition for carriers operating outside of the 100 largest MSAs and provide them with sufficient time to make necessary modifications to their systems.”⁵ Thus, the Commission waived the intermodal portability deadline, until May 24, 2004, for wireline carriers located outside of the top 100 MSAs.⁶

In the present case, the overwhelming majority (approximately 99.9%) of Champaign's telephone service area and customers fall outside of the top 100 MSAs. That a miniscule fraction (approximately one-tenth of one percent) of Champaign's total customer base happens to be located in a county that formerly was considered to be part of a top 100 MSA, and now no longer is within a top 100 MSA, does not alter the fact that Champaign needs exactly the same transition period to provide intermodal portability as it would have needed did it not serve those 17 Clark County customers.

In many different contexts the Commission has granted waivers of its rules or applied different rules in cases where either the number of people affected by the rule or the impact of

⁵ *Id.*, ¶ 29.

⁶ *Id.*

variance from the rule was shown to be *de minimis*. For example, *de minimis* waivers have been granted in the context of the Commission's dialing parity rules,⁷ tariff and access charge rules,⁸ jurisdictional separations rules,⁹ affiliate transactions rules,¹⁰ cellular service area rules,¹¹ PCS build out rules,¹² CMRS spectrum cap rules,¹³ short spacing rules,¹⁴ duopoly and cross-ownership rules,¹⁵ anti-trafficking rules,¹⁶ signal carriage and blackout rules,¹⁷ and program access rules.¹⁸

⁷ See *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Petition of U S WEST Communications, Inc. for Waiver of Dialing Parity Dates Established in March 23, 1999 Dialing Parity Order*, 1999 FCC LEXIS 4863 (October 1, 1999).

⁸ See *CenturyTel of Northwest Arkansas, LLC and Century Tel of Central Arkansas, LLC*, 15 FCC Rcd 25437 (2000).

⁹ See *GTE Midwest Incorporated*, 9 FCC Rcd 7789 (1994); *GTE Southwest Incorporated*, 9 FCC Rcd 7785 (1994); *United Utilities, Inc.*, 9 FCC Rcd 7793 (1994); *Telephone Utilities of Washington, Inc.*, 7 FCC Rcd 3007 (1992).

¹⁰ See *US West, Inc.*, 15 FCC Rcd 4400 (2000).

¹¹ See *Amendment of Part 22 of the Commission's Rules to Provide for Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules*, Second Report and Order, 7 FCC Rcd 2449 (1992).

¹² See *Monet Mobile Networks, Inc.*, 17 FCC Rcd 18381 (2002); *Minnesota PCS Limited Partnership*, 17 FCC Rcd 16371 (2002).

¹³ See *Cingular Wireless LLC*, 24 CR 874 (2001).

¹⁴ See *Rural Initiatives For Shelter And Education; American Indian Broadcast Group, Inc.* 8 FCC Rcd 2472, (1993); *Baltimore Radio Show, Inc.*, 5 FCC Rcd 3712 (1990).

¹⁵ See *Iowa State University Broadcasting Corporation*, 9 FCC Rcd 481 (1993); *Hubbard Broadcasting, Inc.*, 2 FCC Rcd 7374 (1987); *Acadian Television Corp.*, 51 RR2d 743 (1982); *KSOO-TV Inc.*, 43 FCC2d 879 (1973); *Meridian Broadcasting Partnership*, 8 FCC Rcd 8399 (1993).

¹⁶ See *SLT Cable T.V., Inc.* 10 FCC Rcd 8598 (1995).

¹⁷ See *Buckeye Cablevision, Inc.*, 8 FCC Rcd 7944 (1993); *Capitol Cablevision Corporation*, 71 FCC 2d 281 (1979); *Village CATV, Inc.*, 39 FCC 2d 288 (1973); *Continental Cablevision of Lansing, Inc.*, 57 FCC 2d 86 (1975); *Orangeburg Cable TV, Inc.*, 50 RR 2d 538 (1981); *Putnam All Channel Cable Vision, Inc.*, 70 FCC 2d 695 (1978); *Eastern Connecticut Cable Television, Inc.*, 51 FCC 2d 921 (1975); *Missouri Valley Communications, Inc.*, 58 FCC 1101 (1976); *Harbor-Vue Cable TV, Inc.*, 42 FCC 2d 1067 (1973); *Diversified Communications Investors, Inc.*, 37 FCC 2d 981 (1972).

¹⁸ See *Petition of Walt Disney Company for Waiver of Program Access Rules*, 9 FCC Rcd 4007 (1994).

In the present case these *de minimis* standards are satisfied. Not only do the Clark County customers represent a miniscule fraction of Champaign's customer base, they also represent an infinitesimally small fraction of the 56,648 households that are located in Clark County and of the 338,979 households that are presently located in the Dayton, Ohio MSA.¹⁹ Granting the relief sought by Champaign would have a negligible impact on the Commission's stated policy of promoting intermodal competition and would provide Champaign with the same transition period that the Commission granted to similarly situated rural carriers. Accordingly, Champaign requests that the Commission rule that Champaign's intermodal porting obligations are those of a carrier providing service outside of the top 100 MSAs. Alternatively, and to the extent necessary, Champaign requests a limited waiver and extension of its intermodal porting obligations until May 24, 2004.

B. Good Cause Exists for an Extension of Champaign's Compliance Deadlines

Pursuant to Rule Section 1.3, the Commission may waive a rule for good cause shown. In addition, pursuant to Rule Section 52.23(e), a local exchange carrier may request an extension of its LNP implementation deadline by demonstrating that extraordinary circumstances beyond its control prevent it from being able to comply with the deadline.²⁰ Specifically, the carrier must: (1) demonstrate why it is unable to meet the deadline, (2) explain what steps it has taken to

¹⁹ According to the U.S. Census, the Dayton, Ohio MSA encompasses the counties of Greene, Miami, Montgomery and Preble and no longer even includes Clark County. *See* <http://www.census.gov/population/estimates/metro-city/03mfips.txt>. The number of households in Clark County is 56,648. A mere 17 households are served by Champaign in Clark County. The number of households in each of the counties presently comprising the Dayton MSA is as follows: Greene (55,312); Miami (38,437); Montgomery (229,229); and Preble (16,001). *See*, <http://quickfacts.census.gov/qfd/states/39000.html>.

²⁰ *See Telephone Number Portability, First Report and Order*, 11 FCC Rcd 8352, ¶ 85 (1996) (*subsequent history omitted*).

comply, (3) identify particular switches, (4) provide a time when deployment will be complete in the switch(es), and (5) propose milestones for compliance.²¹

Good cause exists for a waiver and extension of Champaign's intermodal portability deadline. Prior to the Commission's *Intermodal Order*, Champaign did not know how the Commission would deal with the complexities of intermodal porting. Indeed, the Commission's *Intermodal Order* did not even deal with how wireline to wireless porting would be implemented and left those issues for a subsequent rulemaking. Thus, Champaign found itself with two short weeks to implement intermodal portability from the time the FCC "clarified" the wireline to wireless porting obligation. This simply is not enough time to accomplish this task.

First and foremost, Champaign will not have a legal way to route calls to wireless carriers that do not have a point of interconnection within the various rate centers where Champaign's local numbers are provisioned. Under Ohio law, Champaign is prohibited from transporting local traffic beyond its certificated service area.²² Furthermore, Champaign's existing exchange access tariff and intrastate toll tariff do not permit Champaign to place local traffic on these trunks.²³ It is illegal for Champaign to unilaterally send local traffic over existing trunks that are governed by tariffs that only permit toll traffic to be carried on such trunks.

There are also a number of ordering, back office, billing, testing and staff training issues that must be resolved before intermodal portability can begin. For example, switch software

²¹ See 47 C.F.R § 52.23(e).

²² See Page's Ohio Revised Code § 4927.01; Ohio Administrative Code Annotated §§ 4901:1-3-02, Appendix; 4901:1-3-03.

²³ See *National Exchange Carrier Association, Inc., Tariff F.C.C. No. 5* at § Section 2.1.1.A. This tariff can be viewed at <http://www.neca.org/media/tariff5.pdf>. See also *Intrastate Long Distance Services Tariff; Rules, Regulations and Rates applying to the provision of Intrastate long distance service for subscribers of The Champaign Telephone Company in the state of Ohio*, File No. 98-1116-TP-ATA (effective September 22,1998) at §§ 1, 3, 5(A). This tariff can be viewed at <http://dis.puc.state.oh.us/dis.nsf/0/E8571387B1988B78852569950044C6A0?OpenDocument>.

must be loaded and configured. This includes, among other things, upgrading the network to direct SS7 connectivity, upgrading switches to AIN 0.1 standards, and provisioning switch location routing numbers. Champaign must contract with a vendor for the Number Portability Administration Center, develop local service order procedures, register, test and certify service order interfaces with wireless carriers, develop internal procedures for the installation and repair of ported numbers, develop and test billing processes for ported numbers, and determine and coordinate delivery of correct 911 information to its wireline 911 database vendor.

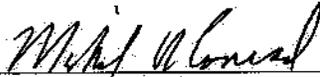
Champaign is moving forward to implement intermodal portability as quickly as it can and hopes to be able to provide intermodal portability on or before the May 24, 2004 deadline applicable to rural carriers. Champaign has contacted Verisign to serve as its service bureau to handle out ports. Based on these conversations, Champaign estimates that it will take Verisign approximately six to eight weeks to put arrangements in place to support intermodal portability. With the various Thanksgiving, Christmas and New Year holidays coming up, Champaign believes that the end of January represents a realistic target for accomplishing this goal.

Likewise, Champaign is in the process of establishing facilities with carriers who have requested porting so that local traffic can be carried on such facilities. Champaign estimates that, in cooperation with these carriers, local trunks can be established to legally carry the traffic. Alternatively, Champaign will seek to amend its tariffs or put other arrangements in place that will allow it to comport with Ohio law. Once these arrangements have been put into place, and assuming Champaign is able to put facilities in place to handle the local traffic and/or amend its tariffs, an additional 30 days will be required to test the system and resolve any routine problems that might arise.

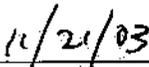
Declaration of Michael W. Conrad

I, Michael W. Conrad, do hereby declare under penalty of perjury the following:

1. I am the President/General Manager of The Champaign Telephone Company.
2. I have read the foregoing "Petition of Champaign Telephone Company for Limited Waiver and Extension." I have personal knowledge of the facts set forth therein, and believe them to be true and correct.



Michael W. Conrad



Date

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