

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

In the Matter of

Telephone Number Portability

CC Docket No. 95-116

REPLY OF BELLSOUTH CORPORATION

BELLSOUTH CORPORATION

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BellSouth Corporation, by counsel and on behalf of its local exchange carrier affiliate, BellSouth Telecommunications, Inc. (“BellSouth”), respectfully submits its reply to comments on its petition for declaratory ruling and/or waiver¹ of the Commission’s rules regarding cost recovery for the implementation of wireless local number portability (“WLNP”).

I. INTRODUCTION AND SUMMARY

As demonstrated more fully herein, the Commission should grant the petition and/or waiver as requested by BellSouth. All parties agree that incumbent local exchange carriers (“ILECs”) are entitled to a reasonable opportunity to recover the costs to implement WLNP. Moreover, all parties acknowledge that the costs to provide WLNP were not ascertainable at the time that the Commission reviewed and approved the tariffed end-user charges for wireline LNP. To eliminate any uncertainty or ambiguity, the Commission should explicitly find that ILECs may recover the costs to implement WLNP from their end users. In addition, the Commission

¹ *Telephone Number Portability*, CC Docket No. 95-116, BellSouth Corporation Petition for Declaratory Ruling and/or Waiver (filed Nov. 14, 2003) (“BellSouth Petition”).

should waive Section 52.33² of its rules to allow BellSouth to modify its current end-user local number portability charge by extending the recovery period beyond the maximum five-year period and/or modifying the current rate.

II. ALL PARTIES AGREE THAT ILECS ARE ENTITLED TO A REASONABLE OPPORTUNITY TO RECOVER THE COSTS INCURRED TO PROVIDE WLNP.

There is unanimous consent that ILECs are entitled to a reasonable opportunity to recover the costs associated with the provision of WLNP by assessing a number portability charge on their end users.³ The majority of commenters fully support BellSouth's Petition.⁴ Only two parties, AT&T Corp. ("AT&T") and Verizon Wireless, express concern about ensuring that BellSouth recover only those costs that satisfy the Commission's standard for recovery. Neither one, however, disputes the right of an ILEC to recover legitimate WLNP costs. In fact, AT&T asserts that no need exists for a declaratory ruling or waiver of the Commission's rules.⁵ According to AT&T, "[t]he precedents make it clear that ILECs may recover local number portability costs from end users in federally tariffed monthly charges."⁶ Thus, the request before the Commission is fully supported by the record. To ensure that there is no ambiguity or uncertainty, the Commission should expressly declare that ILECs may recover the costs incurred to implement WLNP from their end users.

² 47 C.F.R. § 52.33.

³ See, e.g., AT&T Corp. ("AT&T") Comments at 3; CenturyTel, Inc. ("CenturyTel") Comments at 2; Sprint Corporation ("Sprint") Comments at 1; SBC Communications Inc. ("SBC") Comments at 3, 6; USTA Comments at 3.

⁴ See, e.g., CenturyTel Comments; SBC Comments; Sprint Comments; USTA Comments; Verizon Response.

⁵ AT&T Comments at 3.

⁶ *Id.*

III. THE COMMISSION'S TARIFF REVIEW PROCESS WILL ENSURE THAT THE WLNP COSTS ILECS SEEK TO RECOVER SATISFY THE COMMISSION'S STANDARD FOR RECOVERY.

As the Commission is fully aware, it has the authority to approve or reject any proposed federal tariff change by BellSouth. This authority is in no way diminished by granting the petition and/or waiver as requested by BellSouth. Thus, AT&T's argument that the BellSouth Petition should not be granted "unless and until BellSouth has shown that the costs it seeks to recover are directly related to and would not have been incurred but for the implementation of WLNP"⁷ is without merit. BellSouth's Petition was not intended to provide the type of cost detail that would accompany a tariff filing required to modify the existing LNP rate. Nor is such detail necessary for the Commission to issue the requested declaratory ruling.

Clearly, AT&T is jumping the gun. The first order of business is a finding by the Commission that ILECs are entitled to recover the costs incurred to implement WLNP from their end users – a right that AT&T agrees ILECs possess.⁸ The second necessary action would be for the Commission to grant the requested waiver to allow BellSouth to modify its number portability end-user charge, extend the recovery period, or both. If this relief is granted, any proposed change to an ILEC's number portability charge would be subject to the Commission's tariff review process. Thus, the submission of a detailed cost study is not a prerequisite for the Commission to declare that ILECs have the right to recover the costs incurred to implement WLNP from their subscribers by modifying the end-user LNP charge and/or the recovery period.

⁷ *Id.* at 1.

⁸ *Id.* at 3.

Moreover, BellSouth is fully aware of the Commission's standard for cost recovery and is prepared to submit detailed cost information should the Commission grant the requested relief. The WLNP cost study (upon which the figures in BellSouth's Petition are based) follows the parameters established by the Commission when it reviewed BellSouth's wireline LNP cost data in 1999. The costs included in the cost study satisfy the Commission's "but for" test.⁹

AT&T expressly supports allowing ILECs to recover carrier-specific costs directly related to the provision of WLNP.¹⁰ According to AT&T, "[i]f, as BellSouth claims, it modified its OSS systems to recognize a new field on the LSR at the request of wireless carriers to identify the type of port being requested (e.g., wireless-to-wireline; wireline-to-wireless), it should be able to recover those costs, because wireless ports require different data validations than wireline ports."¹¹ Thus, AT&T agrees that BellSouth should be allowed to recover valid WLNP costs.

AT&T's concern about BellSouth recovering WLNP costs that are outside the scope of the Commission's cost recovery mechanism is unwarranted. The Commission will undertake an extensive review of BellSouth's cost data to ensure that the costs BellSouth seeks to recover are legitimate and that they satisfy the Commission's standard for cost recovery. Undoubtedly, the Commission will apply the same rigorous scrutiny it used when reviewing the cost studies submitted for wireline LNP end-user charges. The Commission is the final arbiter and will

⁹ Under the Commission's "but for" test, costs are eligible for recovery only if they satisfy the following two requirements: (1) the costs would not have been incurred by the carrier "but for" the implementation of WLNP; and (2) the costs were incurred "for the provision of" WLNP. *Telephone Number Portability Cost Classification Proceeding*, CC Docket No. 95-116, RM 8535, *Memorandum Opinion and Order*, 13 FCC Rcd 24495, 24500, ¶ 10 (1998).

¹⁰ AT&T Comments at 17 ("In order to recover these costs, BellSouth must identify those that are incremental costs directly related to the provision of WLNP, and exclude the remainder.").

¹¹ *Id.* at 13.

ensure that ILECs recover from their end users only those valid WLNP costs that meet the “but for” test.

Similar to AT&T, Verizon Wireless expresses concern about ensuring that BellSouth is recovering WLNP costs in the manner prescribed by the Commission. Notwithstanding this concern, Verizon Wireless “generally supports BellSouth’s request.”¹² Specifically, Verizon Wireless asks the Commission “to monitor the provision of LNP by BellSouth to ensure that it is effectively providing the services to its customers for which it seeks recovery.”¹³

As an initial matter, BellSouth is fulfilling its obligation to provide WLNP. Moreover, the Commission need not limit its monitoring and enforcement activities to BellSouth. All carriers (wireline and wireless), with limited exceptions,¹⁴ must comply with the Commission’s WLNP mandate. Thus, Verizon Wireless is under the same obligations as BellSouth to provide WLNP. Furthermore, Verizon Wireless recently announced plans to increase the fee it charges its end users for WLNP.¹⁵ Thus, Verizon Wireless should be subject to the same level of scrutiny that it requests be imposed upon BellSouth.

The Commission’s vigilance in monitoring the WLNP activities of all carriers is apparent. The agency is tracking the number of informal WLNP complaints filed against

¹² Verizon Wireless Comments at 1.

¹³ *Id.* at 2.

¹⁴ For example, carriers outside of the top 100 MSAs have until May 2004 to provide WLNP. *Verizon Wireless’s Petition for Forbearance from the Commercial Mobile Radio Services Number Portability Obligation and Telephone Number Portability*, WT Docket No. 01-184; CC Docket No. 95-116, *Memorandum Opinion and Order*, 17 FCC Rcd 14972, 14986, ¶ 31 (2002).

¹⁵ See Peter J. Howe, *Verizon Wireless to increase fee to cover policy’s cost*, The Boston Globe, Nov. 24, 2003, available at www.boston.com news archives; Bruce Meyerson, *Verizon Wireless doubles fee for number-switching*, Daily Record Business, Nov. 26, 2003, available at <http://www.dailyrecord.com/business/business-1-vercost.htm>. (wireless customers to pay 40 cents a month).

carriers, including Verizon Wireless.¹⁶ In addition, the Commission has even requested information from at least one carrier regarding the nature of the problems it has faced when trying to port numbers.¹⁷ WLNP is a significant undertaking, and undoubtedly, the Commission can and should continue to monitor closely the WLNP activities of all carriers.

Verizon Wireless also asks the Commission to declare that certain “carrier-to-carrier porting charges are prohibited.”¹⁸ It asserts that BellSouth is seeking to recover the same costs from end users and carriers thereby leading to double recovery.¹⁹ To eliminate the possibility of double recovery, Verizon Wireless requests that the Commission find that ILECs may recover WLNP costs from their end users only.

BellSouth agrees that only eligible WLNP costs should be recoverable from end users in compliance with the Commission’s cost recovery mechanism. However, as demonstrated more fully below, the costs identified by Verizon Wireless are either not directly related to the provision of WLNP or misidentified. Accordingly, BellSouth is rightfully not seeking to recover these costs from its end users.

Verizon Wireless identifies a number of charges that BellSouth purportedly plans to impose on wireless carriers. These charges include:

¹⁶ See *Wireless Portability Complaints: Approximately 2,400 Consumer Complaints Since Porting Began on November 24* (FCC News Release, Dec. 29, 2003). (AT&T Wireless – 1,221 complaints; Sprint PCS – 518 complaints; Verizon Wireless – 406 complaints).

¹⁷ See Letter from John B. Muleta, Chief, Wireless Telecommunications Bureau, to Mr. Douglas I. Brandon, Vice President – External Affairs & Law, AT&T Wireless Services, Inc., Re: Wireless Local Number Portability Implementation (dated Dec. 4, 2003), attached to FCC News Release, Dec. 4, 2003.

¹⁸ Verizon Wireless Comments at 2.

¹⁹ *Id.* at 1-2.

a \$15 per port charge if carriers send requests through a fax-based system; a \$3.50 per port charge if carriers use BellSouth's GUI [Graphical User Interface], an hourly-rated "coordination fee" for out-of-hours or special arrangement "cut overs" (such as certain multi-line business request); and a fee for migrating numbers from "Type-1" to "Type-2" to facilitate porting.²⁰

Verizon Wireless mischaracterizes the above-referenced charges by labeling them all WLNP expenses.²¹ The "per port charges" (\$15²² and \$3.50) rates are transaction fees that BellSouth charges carriers that submit local service requests ("LSRs") to BellSouth. These LSRs may or may not involve the porting of a telephone number. For example, if a carrier wants to order a resold line, it submits an LSR to BellSouth. If a CLEC wants to disconnect a local exchange service, it submits an LSR. If a wireline or wireless carrier wants to port a number from BellSouth, it submits an LSR. Thus, these fees are not specific to WLNP, were not developed for WLNP, and should not be considered directly related to the provision of WLNP.

In addition, these fees cover the costs of processing LSRs. If a carrier elects to submit an LSR via fax rather than through one of BellSouth's electronic ordering systems, the charge is higher due to the manual effort required to process a faxed LSR. BellSouth does not deem these charges to satisfy the "but for" test established by the Commission and therefore is not seeking to recover them from end users as proposed by Verizon Wireless.

Similarly, the "hourly-rated 'coordination fee' for out-of-hours or special arrangement 'cut-overs' (such as certain multi-line business requests)" referenced by Verizon Wireless is not a WLNP expense. Sometimes carriers elect to have work performed after hours for their large

²⁰ *Id.* at 5-6.

²¹ *See id.* at 1.

²² The \$15 rate referenced by Verizon Wireless is inaccurate. The actual charge for the submission of an LSR via fax is \$19.95, not \$15.

customers in order to ensure that service is not disrupted during normal business hours. Some examples might include the establishment of new local service for a large business customer or the addition of multiple Centrex lines. Given that BellSouth may have to use employees after hours or make unique arrangements to facilitate these service requests, it charges carriers electing such special service arrangements additional fees. These charges are not directly related to the provision of WLNP by BellSouth and, therefore, are not WLNP costs that BellSouth is seeking to recover from its end users. BellSouth is assessing the appropriate source – the carrier ordering the particular service or requesting the special arrangement.

Contrary to Verizon Wireless's assertions, the LSR fees and special service fees charged by BellSouth are not inconsistent with the Commission's cost recovery mechanism.²³ Again, these charges are neither WLNP-specific nor directly attributable to WLNP. They are simply fees assessed for various services provided to carriers, regardless of whether wireless or wireline LNP is involved. Consequently, BellSouth has not identified these costs as recoverable from its end users through an LNP charge.

Finally, Verizon Wireless's statement that BellSouth is charging a fee to migrate a number from a Type 1²⁴ arrangement to a Type 2 arrangement is inaccurate.²⁵ First, BellSouth is not assessing any fees at all for migration.²⁶ BellSouth has been working with a number of

²³ Verizon Wireless Comments at 6.

²⁴ Type 1 interconnection is a trunk connection between a wireless carrier's switch and a BellSouth end office switch. Type 1 wireless numbers reside in the BellSouth end office and are assigned to a Type 1 wireless interconnection trunk group that supports traffic between the wireless carrier's switch and the Public Switched Telephone Network.

²⁵ Verizon Wireless Comments at 6.

²⁶ Migration is a process that involves moving numbers that reside on BellSouth switches to switches owned or leased by a wireless carrier.

wireless carriers to migrate numbers served by Type 1 wireless interconnection arrangements since February 2003.²⁷ To date, BellSouth has completed the migration of close to half of these 1.8 million Type 1 numbers.

In sum, Verizon Wireless mislabels a number of charges BellSouth assesses. Inaccurately describing these charges as WLNP charges, Verizon Wireless asserts that these costs should be recovered from end users rather than carriers. As demonstrated above, the charges identified by Verizon Wireless are either not directly related to the provision of WLNP or do not exist. Therefore, consistent with the Commission's requirements for cost recovery, BellSouth is not seeking to recover these costs from its end users.

IV. BELLSOUTH PROPOSES TO RECOVER ITS WLNP COSTS BY MODIFYING THE END USER CHARGE AND/OR EXTENDING THE RECOVERY PERIOD.

In its petition, BellSouth outlined four scenarios for the recovery of its WLNP costs. These scenarios, summarized below, involve either adjusting the existing end-user LNP charge, extending the recovery timeframe, or a combination of both.²⁸

²⁷ The Commission has encouraged carriers to pursue migration to reduce the number of complex wireline ports. *Telephone Number Portability – Carrier Requests for Clarification of Wireless-Wireless Porting Issues*, CC Docket No. 95-116, *Memorandum Opinion and Order*, FCC 03-237, ¶ 31 (rel. Oct. 7, 2003).

²⁸ BellSouth Petition at 19-20.

<u>Scenario</u>	<u>Amount</u>
Scenario 1 (Increase Current \$0.35 LNP Rate January 2004 through May 2004)	\$0.66
Scenario 2 (WLNP Rate – Three-Month Recovery)	\$0.43
Scenario 3 (WLNP Rate – Six-Month Recovery)	\$0.22
Scenario 4 (One Time Charge)	\$1.21

Although commenters vary on the approach the Commission should take, BellSouth does not advocate any particular option at this time. Rather, BellSouth's intention was to provide the Commission with information regarding different methods of recovery and the associated end-user charges. While Verizon asks the Commission to allow it to extend its current surcharge for an additional four months, it also states that any of the proposed alternatives would be acceptable.²⁹ AT&T asserts that CLEC billing systems would experience the least impact from Scenario 1, which involves raising the current number portability charge for the remainder of the five-year period (Jan. 2004-May 2004). Although this option may offer some advantages, it does not appear feasible, given that the Commission is unlikely to render a decision on BellSouth's Petition and review and approve a tariff rate increase in the requisite timeframe.

Thus, while some scenarios may carry certain administrative efficiencies or be less confusing for consumers, as BellSouth has demonstrated, options are available. Moreover, given that different ILECs will have different costs resulting in varying proposed end-user rates or recovery periods, a one-size-fits-all approach is not appropriate. As Sprint points out, "[i]f there

²⁹ Verizon Response at 1-2.

are any significant concerns about any particular ILEC's proposed charge, [they] can be addressed through the tariff review process."³⁰

Moreover, if the Commission grants the relief sought by BellSouth (and other ILECs), the Commission should allow these carriers flexibility in the recovery of WLNP costs, especially in light of the current proceeding seeking comment on two issues that could have a significant impact on the costs incurred to implement WLNP.³¹ In its *Further Notice of Proposed Rulemaking*, the Commission has asked for input on how to facilitate wireless-to-wireline porting if the rate center associated with the wireless number is different from the rate center in which the wireline carrier seeks to serve the customer.³² The Commission also is considering whether to reduce the length of the porting interval for intermodal porting.³³

BellSouth agrees with Sprint that "[t]he resolution of these issues could impose further costs on the ILEC industry that cannot be ascertained today."³⁴ Indeed, BellSouth's current WLNP cost study does not include costs associated with potential modifications to its systems to accommodate a shortened porting interval or to facilitate the porting-in of a number outside of a BellSouth rate center. BellSouth supports Sprint's recommendation that any waiver granted by the Commission should "allow the recovery of both currently identifiable WLNP costs and any

³⁰ Sprint Comments at 4.

³¹ See *Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, CC Docket No. 95-116, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, FCC 03-284 (rel. Nov. 10, 2003) ("*Memorandum Opinion and Order and FNPRM*").

³² *Id.* ¶¶ 2, 42-44.

³³ *Id.* ¶¶ 2, 49-51.

³⁴ Sprint Comments at 3.

additional WLNP costs that may result from future WLNP rules.”³⁵ BellSouth proposes that the Commission explicitly state that future modifications to the number portability charge are permissible, without having to undergo a petition process as time-consuming as the instant one. Again, the Commission will retain its authority to approve or reject any proposed modifications to the federally tariffed end-user LNP charge.

V. BELLSOUTH HAS SATISFIED THE STANDARD FOR GRANT OF A WAIVER.

Commenters agree that BellSouth has met the “good cause” standard³⁶ for grant of its request for a waiver of the Commission’s prohibition on the ability of ILECs to increase the end user charge for number portability or extend the charge beyond five years. BellSouth has demonstrated that “special circumstances warrant a deviation from the general rule” and that such a deviation will serve the public interest.³⁷

Unique circumstances justify allowing BellSouth (and other ILECs) to modify their current LNP end-user charges and/or extend the five-year recovery period. As SBC explains, “granting [BellSouth’s] waiver request is consistent with Congress’s intent in enacting section 251, is appropriate under the Commission’s own cost recovery principles, and is in the public interest.”³⁸ For the reasons set forth below, the Commission should grant the requested waiver.

³⁵ *Id.* at 4.

³⁶ See 47 C.F.R. § 1.3; *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“The FCC has authority to waive its rules if there is ‘good cause’ to do so.”).

³⁷ *Northeast Cellular Telephone Co.*, 897 F.2d at 1166; see also *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

³⁸ SBC Comments at 10.

First, as explained in its petition, in the absence of a waiver, BellSouth would be deprived of a reasonable opportunity to recover its WLNP costs.³⁹ Commenters such as CenturyTel, Inc. (“CenturyTel”) and SBC agree that such an outcome would be a clear violation of Section 251(e)(2) and the *Third Report and Order*.⁴⁰ The Commission has already found that “the statute requires [it] to ensure that the costs of number portability do not affect the ability of carriers to compete.”⁴¹ Moreover, the Commission has concluded that the only permissible method for ILECs to recover number portability costs is through an end user charge.⁴² A denial of the instant waiver request would leave BellSouth without the ability to recover its costs. Meanwhile, as SBC points out, “other telecommunications carriers are free to recover their costs directly related to WLNP at any time and in any lawful manner.”⁴³ A denial of the requested relief would place ILECs at a significant competitive disadvantage – in clear violation of the statute’s competitive neutrality mandate and Commission precedent.

A second justification for granting the requested waiver is the fact that the current end user charges for local number portability do not account for the costs incurred to implement WLNP. As BellSouth’s Petition explains, the Commission precludes a carrier from increasing the tariffed LNP end-user charge “*unless it can show that the end-user charge was not reasonable based on the information available at the time it was initially set*”⁴⁴ Based on this

³⁹ BellSouth Petition at 23-24.

⁴⁰ See, e.g., CenturyTel Comments at 3; SBC Comments at 11-12.

⁴¹ Telephone Number Portability, CC Docket No. 95-116, RM 8535, Third Report and Order, 13 FCC Rcd 11701, 11732, ¶ 56 (1998) (“*Third Report and Order*”).

⁴² *Id.* at 11773, ¶ 135.

⁴³ SBC Comments at 11.

⁴⁴ *Third Report and Order*, 13 FCC Rcd at 11777, ¶ 144 (emphasis added).

standard, the LNP end-user charges approved by the Commission were arguably “not reasonable” from the very beginning because they did not include WLNP costs.

As the commenters demonstrate, the costs associated with WLNP were not reasonably ascertainable five years ago when the Commission reviewed and approved the current number portability charges assessed by ILECs.⁴⁵ Moreover, the record shows that the Commission was not inclined to allow carriers to recover WLNP costs had they included such costs in their original cost studies. According to Sprint, “the Commission staff expressly advised [it] to remove \$10,234,076 of WLNP operational support system (‘OSS’) costs from its filing, deeming WLNP costs as speculative.”⁴⁶ In addition, Verizon points out that, if it “had included in its 1999 tariff filing projected costs based upon what it then understood about CMRS number portability, those projections would have been dead wrong.”⁴⁷

Thus, although BellSouth and other ILECs were aware that they would ultimately incur costs to deploy WLNP, those costs were either unknown at the time or very rudimentary estimates. In addition, multiple extensions of the WLNP implementation deadline and delays in the development of WLNP standards and requirements further postponed the ability of carriers to identify and quantify the costs associated with implementing WLNP. Therefore, the omission of

⁴⁵ See, e.g., SBC Comments at 6-7; Sprint Comments at 2; USTA Comments at 4-5; Verizon Response at 3.

⁴⁶ Sprint Comments at 2; see also Verizon Response at 3-4 (“The Commission seemed to agree that it was premature for ILECs to begin to recover the costs of CMRS number portability in 1999. When one ILEC attempted to do so, it was criticized for seeking recovery of costs based on its assumption (which ultimately proved to be incorrect) about how the Commission was going to rule on one of the issues that the NANC had put before it, the porting interval question.”).

⁴⁷ Verizon Response at 3.

WLNP costs from the original data submitted to the Commission to support the current end-user LNP charges was justified.

Third, granting BellSouth permission to recover its WLNP costs at this time will link recovery from end users with the implementation of WLNP. As the Commission has determined, “recovery from end users should be designed so that end users generally receive the charges only when and where they are reasonably able to begin receiving the direct benefits of long-term number portability.”⁴⁸ SBC correctly notes that allowing ILECs “to recover the costs directly related to providing inter-modal LNP at this point in time is wholly consistent with this principle.”⁴⁹ BellSouth is proving WLNP to consumers as required by the Commission. Consequently, it should be allowed to recover the costs incurred to enable the public to enjoy the benefits of this functionality.

Fourth, grant of the instant waiver request will serve the public interest. As has been stated, the Commission is obligated by statute to ensure that carriers bear the costs to implement number portability in a competitively neutral manner. Moreover, the Commission has already concluded that “allowing [incumbent LECs] to recover number portability costs [through a federal charge assessed on end-users] will best serve the goals of the statute.”⁵⁰ Therefore, authorizing BellSouth to recover its eligible WLNP costs by modifying its end-user LNP charge and/or extending the recovery timeframe is fully consistent with the Act and the Commission’s prior treatment of wireline LNP costs. Moreover, BellSouth’s proposed recovery methods would have a minimal impact on subscribers. As Sprint point outs, end users “are already accustomed

⁴⁸ *Third Report and Order*, 13 FCC Rcd at 11776, ¶ 142.

⁴⁹ SBC Comments at 13.

⁵⁰ *Third Report and Order*, 13 FCC Rcd at 11773, ¶ 135.

to monthly recovery charges.”⁵¹ Therefore, a continuation of the number portability charge for a limited time will not impose undue hardship on end users.

VI. CONCLUSION

The record overwhelmingly supports an express ruling by the Commission that ILECs may recover the costs to implement WLNP through charges imposed on end users. Only two parties expressed some reservations about ensuring that BellSouth recover only those WLNP costs that satisfy the Commission’s cost recovery standard. There need not be any concern in this area. The Commission’s rigorous tariff review process will ensure that the costs identified by BellSouth are legitimate and satisfy the “but for” test.

In addition to meeting the burden of proof to justify a declaratory ruling that ILECs may recover the costs incurred to implement WLNP from their end users, BellSouth also has satisfied the “good cause” standard for grant of a waiver to allow it to modify its end-user charge and/or the five-year recovery period. First, BellSouth has shown that allowing it to recover its eligible WLNP costs is mandated by the Act, the requirement of “competitive neutrality,” and Commission precedent. Second, because WLNP cost data were unknown at the time the initial LNP charges were approved, it was reasonable to omit such costs. Third, the repeated extensions of the WLNP implementation deadline further delayed the identification of these costs. Finally, allowing BellSouth to recover its WLNP costs by modifying its end-user LNP charge and/or extending the recovery timeframe will have a minimal impact on end users. In light of the foregoing, the Commission should grant BellSouth’s Petition and/or waiver.

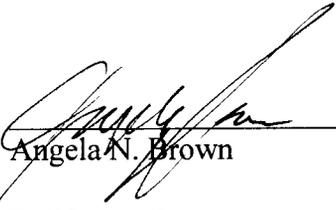
⁵¹ Sprint Comments at 3.

Respectfully submitted,

BELLSOUTH CORPORATION

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By:

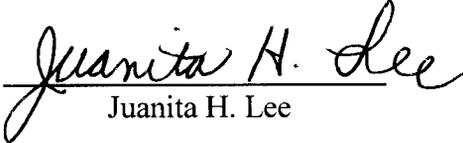

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January 6, 2004

CERTIFICATE OF SERVICE

I do hereby certify that I have this 6th day of January 2004 served the following parties to this action with a copy of the foregoing **REPLY OF BELLSOUTH CORPORATION** by electronic filing, electronic mail and/or by placing a copy of the same in the United States Mail, addressed to the parties listed on the attached service list.



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