

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

In the Matter of)	
)	
Telephone Number Portability)	CC Docket No. 95-116
)	
Choice Wireless, LC)	
)	
Petition for Waiver of Section 52.31(a))	
of the Commission's Rules)	

To: Chief, Wireless Telecommunications Bureau

PETITION FOR WAIVER

Pursuant to Sections 1.3, 1.925 and 52.31(d) of the Commission's Rules,¹ Choice Wireless, LC ("Choice") hereby requests temporary waiver of the May 24, 2004 implementation date² requiring Choice to support a long-term database method for number portability.

Substantial and credible evidence supports Choice's position that special circumstances warrant a short extension of the compliance deadline. Accordingly, and in compliance with the specific directives set forth in Section 52.31(d), Choice seeks an extension of time until September 24, 2004. In support thereof, the following is shown:

I. Background

Choice is a CMRS provider serving the Lawton, Oklahoma (BTA 248), Sherman-Denison, Texas (BTA 418), Ardmore, Oklahoma (BTA 019), and Wichita Falls, Texas (BTA 473) markets. Having recently attempted in vain to establish and maintain minimum Mobile

¹ 47 C.F.R. §§ 1.3, 1.925 and 52.31(d).

² Choice provides wireless services outside the largest 100 MSAs. Pursuant to the Commission's timetable, they would be required to port numbers "within six months after receiving the [porting] request or within six months after November 24, 2003, whichever is later." In re Verizon Wireless's Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation, *Memorandum Opinion and Order*, 17 FCC Rcd. 14972, 14986 (2002) (citation omitted). Having received valid porting requests, the May 24, 2004 date is applicable.

Switching Center ("MSC") standards, Choice has determined that it must replace its TECORE MSC. Having procured lender approval, Choice is currently working with Nortel,³ its preferred vendor, to provide a combination of new and previously-deployed equipment suited to its market and cell-site configuration. Although Choice has not finalized its purchase or schedule for installation of the portability-capable switch, it is now apparent that all required work will not be completed by the May 24, 2004 deadline. Accordingly, Choice seeks a short extension of time in which to install the replacement switch.

II. Waiver is Warranted

Given the circumstances surrounding Choice's number portability implementation activities, the requested extension of time is justified. In compliance with Section 52.31(d), Choice sets forth the following information:

A. The Facts Demonstrate Why Choice is Unable to Meet the Commission's Deployment Schedule

Choice has a long history of dissatisfaction with the performance of its TECORE MSC, and the MSC Baltimore, Maryland manufacturer. While some limited progress had been accomplished over the past two years, recent prolonged MSC software-related failures have caused Choice to determine that it is not technically feasible or fiscally responsible to deploy additional software features in its current MSC. The following list delineates the problems Choice has experienced during or since the fourth quarter of 2003. The totality of this experience serves as basis of Choice's decision to seek another switch vendor, necessitating the filing of this waiver request.

³ Another vendor recently has expressed interest in bidding for the contract to replace the TECORE equipment. While Choice indicated that it was open to discussion, Choice also specified that it would not be interested in considering any proposal that would compromise the time-frame for LNP compliance proposed herein.

1. The MSC was unable to receive inbound calls on various trunk groups at random times. This problem was not corrected for two months.
2. Home and roam customers routinely received busy signals during peak traffic hours when local and long distance trunk routes were available. This problem was not corrected for a month.
3. Prepay customers randomly cannot access their account information. This problem remains unresolved.
4. Mobile to mobile calls randomly have no audio once connected. This problem remains unresolved.
5. A malfunction in the MSC software improperly allows or disallows network access to certain roaming partners. The problem remains unresolved.
6. The MSC erroneously sends high volumes of data over the STP links. The problem remains unresolved.
7. The loss of roaming related functions following software updates cause the inability to pass standard IREG roaming tests. The problem remains unresolved.
8. The inability to retrieve voice mail while roaming. This problem was not corrected for over one month.
9. The inability for IXC calls to correctly route to voice mail. The problem was not corrected for over one month.
10. Following a subsequent software update, the MSC causes the text message server to crash. This problem remains unresolved.

11. Call waiting and text messages randomly cause existing calls to drop. This problem remains unresolved.

12. The MSC SS7 sub-system randomly fails and must reset, dropping all existing connections. This problem remains unresolved.

The attempted solution to many of the referenced problems has been the delivery of software patches from TECORE, which were be installed, tested and removed because of their total failure to resolve the existing problem, or causation of other problems in the system. Accordingly, Choice has little confidence that an LNP solution could be implemented utilizing the current TECORE MSC.

As detailed in regular reports to the Commission, Choice has struggled to bring the current switch, manufactured by TECORE, and other infrastructure provided by Airmet, into compliance with TTY requirements.⁴ In addition, Choice has sought a waiver of CALEA compliance deadlines due to financial hardship and its lack of confidence in the software provided by TECORE. After some delay associated with the lender approval processes, which was procured only recently, Choice is in the final stages of receiving and reviewing a formal quote from Nortel to replace the TECORE equipment with Nortel-guaranteed equipment suited to the Choice markets and infrastructure. Because this switch also would provide a number portability solution, Choice had been hopeful that its installation would be completed in time to meet the May 24, 2004 porting deadline.

It is now apparent, however, that the process of locating and installing the used equipment may well extend beyond the May 24, 2004 date. Nortel has informally indicated to

⁴ See Petition for Waiver filed by Choice Wireless, LC, CC Docket No. 94-192 (June 21, 2002) and quarterly reports filed thereafter.

Choice that the earliest in-service date available would be early September, 2004. Accordingly, to accommodate some slippage and testing requirements, Choice seeks an extension until September 24, 2004, or four (4) months, within which to meet number portability obligations.

B. A Detailed Explanation of the Activities that the Carrier has Undertaken to Meet the Implementation Schedule Prior to Requesting an Extension of Time

Choice has, in good faith, attempted to meet the implementation schedule prior to requesting an extension of time. To the extent that there exists a portability solution for the TECORE switch, based upon its experience, Choice believes it to be financially irresponsible to attempt the deployment of a purported solution for the short period of requested relief, having exhausted its ability to rely upon its current MSC provider, which has proven unsatisfactory for a number of reasons, including LNP software that, to Choice's knowledge, has not been implemented by any carrier to date. Choice initiated an orderly process of examining alternatives, including purchase of new and used equipment as a means of providing the required functionality in an economical and practical manner, and to the satisfaction of its lenders. Choice also attempted to work with those carriers requesting portability (Verizon, AT&T, T-Mobile and Western Wireless) upon realizing that the May 24, 2004 date likely would be missed. While each of these companies indicated orally some willingness to postpone porting, no carrier has been inclined to withdraw or modify its porting request, thus necessitating the instant waiver request.

C. An Identification of the Particular Switches for Which the Extension is Requested

The current TECORE MSC is assigned CLLI code MNSTTXXACMA.

D. The Time in Which the Carrier Will Complete

Deployment in the Affected Switches

As described above, Choice anticipates deployment and testing of its newly-refurbished Nortel switch by September 24, 2004, but notes that the projected implementation schedule is dependent upon Nortel's delivery and installation scheduling, and upon coordination and testing between Choice and the requesting carriers.

E. A Proposed Schedule with Milestones for Meeting the Deployment Date

Choice will provide the Commission with quarterly progress reports during the period within which the extension is provided. Those reports will provide relevant progress details, and a summary of the steps taken and to be taken to deploy the new switch which will support porting.

III. Conclusion

As demonstrated above, Choice has actively and appropriately responded to *bona fide* requests to implement number portability. Only recently discovering that it will be technically impossible to meet the current May 24, 2004 implementation deadline, Choice seeks a limited extension within which to comply with wireless carriers' porting requests. As demonstrated above, and in the context of the totality of the circumstances leading up to this request, Choice respectfully submits that they have met the criteria of Section 52.31(d) in support of the instant request for an extension of the May 24, 2004 number portability implementation date.

Accordingly, grant of this request under these specific facts and circumstances is consistent with the implementation of number portability in a reasonable fashion and in "such manner as will

best conduce to the proper dispatch of business and to the ends of justice.”⁵

Respectfully submitted,

CHOICE WIRELESS, LC

By: _____

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Date: March 24, 2004

⁵ 47 U.S.C. §154(j).

DECLARATION OF TIM HUMPERT

I, Tim J. Humpert, President of Choice Wireless, LC, do hereby declare under penalty of perjury that I have read the foregoing Petition for Waiver and that the facts stated therein are true and correct, to the best of my knowledge, information and belief.

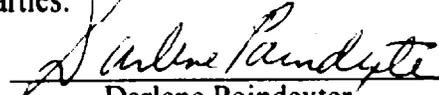


Tim J. Humpert

Dated: 3-23-04

CERTIFICATE OF SERVICE

I, Darlene Poindexter, of Kraskin, Lesse & Cosson, LLC, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Petition for Waiver" was served on this 24th day of March 2004, on the following parties:


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