

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

In the matter of)
)
Biennial Regulatory Review of Regulations)
Administered by the Wireline Competition) WC Docket No. 02-313
Bureau)
)
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To: The Commission

COMMENTS OF THE RURAL TELECOMMUNICATIONS GROUP, INC.

The Rural Telecommunications Group, Inc. (“RTG”), by its attorneys, hereby submits comments in response to the *NPRM* released by the Federal Communications Commission (“FCC” or “Commission”) on January 12, 2004 in the above-captioned proceeding.¹ RTG is a section 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies through advocacy and education in a manner that best represents the interests of its membership. RTG’s members have joined together to speed the delivery of new, efficient, and innovative telecommunications technologies to the populations of remote and underserved sections of the country. RTG’s members provide wireless telecommunications services, such as cellular telephone service and Personal Communications Services (“PCS”), among others, to their subscribers. RTG’s members are small businesses serving or seeking to serve secondary, tertiary, and rural markets. RTG’s members are comprised of both

¹ *In the matter of Biennial Regulatory Review of Regulations Administered by the Wireline Competition Bureau*, WC Docket No. 02-313, Notice of Proposed Rulemaking, FCC 03-337 (rel. January 12, 2004) (“*NPRM*”).

independent wireless carriers and wireless carriers that are affiliated with rural telephone companies.

RTG's comments are directed to paragraphs 27 and 28 of the *NPRM* wherein the Commission proposes to modify and, in some cases eliminate, certain provisions of its rules implementing both wireline and wireless local number portability ("LNP"). Specifically, with respect to its wireline LNP rules, the Commission has requested comment on whether sections 52.23(b) and (d)-(f) of its rules should be modified to reflect the passage of the deadline for deployment of wireline LNP in the largest 100 Metropolitan Statistical Areas ("MSAs"). Additionally, the Commission has proposed to repeal section 52.23(g), based on the fact that the field tests required by that rule section have been completed. With respect to its wireless LNP rules, the Commission has proposed to repeal section 52.31(c) of its rules, which has expired by its own terms, and has asked for comment on whether sections 52.31(d)-(e) should be modified or retained in light of the fact that the original deployment schedule for wireline LNP has passed.

Initially, RTG agrees with the Commission's tentative conclusion that sections 52.23(d) and (g) of the wireline LNP rules can be eliminated in their entirety as these relate to the initial deployment schedule for LNP in the top 100 MSAs. Likewise, RTG agrees that section 52.31(c) of the Commission's wireless LNP rules can be eliminated since this provision also relates strictly to the LNP implementation schedule for the top 100 MSAs.

The remainder of sections 52.23 and 52.31, however, must not be eliminated or modified in a manner that will create confusion or additional burdens on small and rural wireline and/or wireless carriers as they continue to implement LNP both inside and

outside of the top 100 MSAs. The Commission must remain cognizant that many small and rural carriers, even those serving portions of the largest MSAs, have not yet received a bona fide request (“BFR”) to deploy LNP and are therefore not presently obligated to deploy LNP. These small and rural carriers presumably will receive porting requests on a going forward basis. In addition, even carriers that have received a request to deploy LNP in particular switches may, in the future, receive requests to deploy LNP in new and/or existing switches not covered by existing requests.

Because some small carriers both inside and outside the top 100 MSAs are not yet required to deploy LNP, the wireline porting criteria contained in section 52.23(a) of the rules, the eligibility criteria and procedures mandated by section 52.23(b) of the rules, the timeframes for implementation following receipt of a request contained in section 52.23(c), and the waiver procedures and criteria specified in section 52.23(e) of the rules remain relevant and necessary to ensure successful LNP implementation on an ongoing basis, as does the LNP oversight authority delegated to the Chief of the Wireline Competition Bureau by section 52.23(f) of the rules.

Similarly, the wireless porting criteria, implementation procedures and time frames contained in section 52.31(a) of the rules, the technical capabilities to support nationwide roaming and call routing mandated by sections 52.31(a) and (b) of the rules, the waiver procedures and criteria specified in section 52.31(d) of the rules, and the LNP oversight authority delegated to Chief of the Wireless Telecommunications Bureau by section 52.31(e) of the rules remain relevant and necessary to ensure successful LNP implementation on an ongoing basis in the wireless context, especially in light of the

anticipated development of new services and new entrants into the wireless telecommunications sector.

For the foregoing reasons, there is no reason to eliminate or narrow the scope of sections 52.23(a)-(c) and (e)-(f) of the Commission's wireline LNP rules or sections 52.31(a)-(b) and (d)-(e) of the Commission's wireless LNP rules. To the contrary, the Commission should modify these rules to make two clarifications. First, the Commission should add a provision to section 52.31 of its rules applicable to wireless carriers that parallels section 52.23(c) and clarifies the deadline for implementation by carriers operating outside the 100 largest MSAs. Specifically, the Commission should clarify that wireless carriers operating outside of the 100 largest MSAs must implement LNP within six months of receipt of a specific request. Such a rule clarification is entirely consistent with and would merely codify the timetable established by the Commission in the *Verizon Wireless Forbearance Order*.²

Second, the Commission should modify both sections 52.23 and 52.31 of its rules to clarify that a carrier's deployment schedule is determined as of the date it receives a bona fide request for LNP. The U.S. Census Bureau and the Office of Management and Budget ("OMB") regularly revise both the rankings and the composition of MSAs. Thus, a carrier located outside of the 100 largest MSAs when it receives a bona fide request for LNP would normally have six months to become LNP capable. If during that six month period, however, the area served by the carrier's switch is redefined as part of the top 100 MSAs, it is not clear whether the six month implementation deadline would continue to apply or whether the carrier would suddenly become subject to one of the shorter

² See *Verizon Wireless's Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation and Telephone Number Portability*, 17 FCC Rcd 14972 (2002) at ¶ 31.

deadlines applicable to carriers in the top 100 MSAs in certain instances. The Commission's rules should clarify that a carrier, whose service area is not within a top 100 MSA at the time it receives a request for LNP but whose service area is subsequently included in a top 100 MSA during the LNP implementation period, will remain subject to the implementation timetable established when the bona fide request was originally made.

Apart from these two clarifications, any modifications to sections 52.23 and 52.31 should be implemented in a surgical fashion to avoid modifying the substantive guidelines and procedures that continue to be necessary for ongoing LNP implementation. To this end, RTG has attached to these comments a set of suggested revisions to Sections 52.23 and 52.31 of the rules that is intended to eliminate dated references to the initial phased implementation of LNP in the largest markets while taking into account that LNP implementation remains an ongoing process justifying retention of the rules for the most part.

Respectfully submitted,

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APPENDIX

§52.23 Deployment of long-term database methods for number portability by LECs.

(a) Subject to paragraphs (b) and (c) of this section, all local exchange carriers (LECs) must provide number portability in compliance with the following performance criteria:

(1) Supports network services, features, and capabilities existing at the time number portability is implemented, including but not limited to emergency services, CLASS features, operator and directory assistance services, and intercept capabilities;

(2) Efficiently uses numbering resources;

(3) Does not require end users to change their telecommunications numbers;

(4) Does not result in unreasonable degradation in service quality or network reliability when implemented;

(5) Does not result in any degradation in service quality or network reliability when customers switch carriers;

(6) Does not result in a carrier having a proprietary interest;

(7) Is able to migrate to location and service portability; and

(8) Has no significant adverse impact outside the areas where number portability is deployed.

(b)(1) All LECs must provide a long-term database method for number portability in the 100 largest Metropolitan Statistical Areas (MSAs), as defined in §52.21(k), in switches for which another carrier has made a specific request for the provision of number portability, subject to paragraph (b)(2) of this section.

(2) Any procedure to identify and request switches for deployment of number portability must comply with the following criteria:

(i) Any wireline carrier that is certified (or has applied for certification) to provide local exchange service in a state, or any licensed CMRS provider, must be permitted to make a request for deployment of number portability in that state;

~~(ii) Carriers must submit requests for deployment at least nine months before the deployment deadline for the MSA;~~

(iii) A LEC must make available upon request to any interested parties a list of its switches for which number portability has been requested and a list of its switches for which number portability has not been requested; and

(iv) After the deadline for deployment of number portability in an MSA in the 100 largest MSAs, according to the deployment schedule set forth in the Appendix to this part, a LEC must deploy number portability in that MSA in additional switches upon request within the following time frames:

(A) For remote switches supported by a host switch equipped for portability ("Equipped Remote Switches"), within 30 days;

(B) For switches that require software but not hardware changes to provide portability ("Hardware Capable Switches"), within 60 days;

(C) For switches that require hardware changes to provide portability ("Capable Switches Requiring Hardware"), within 180 days; and

(D) For switches not capable of portability that must be replaced ("Non-Capable Switches"), within 180 days.

(c) 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.

~~(d) Where a LEC located outside of the 100 largest MSAs receives a specific request for switches in an area that is subsequently included within the 100 largest MSAs, the implementation schedule in paragraph (c) of this section shall apply.~~

~~(d) The Chief, Common Carrier Bureau, may waive or stay any of the dates in the implementation schedule, as the Chief determines is necessary to ensure the efficient development of number portability, for a period not to exceed 9 months (i.e., no later than September 30, 1999).~~

(e) In the event a LEC is unable to meet the Commission's deadlines for implementing a long-term database method for number portability, it may file with the Commission at least 60 days in advance of the implementation deadline a petition to extend the time by which implementation in its network will be completed. A LEC seeking such relief must demonstrate through substantial, credible evidence the basis for its contention that it is unable to comply with the deployment schedule set forth in ~~the appendix to~~ this Part 52. Such requests must set forth:

(1) The facts that demonstrate why the carrier is unable to meet the Commission's deployment schedule;

(2) A detailed explanation of the activities that the carrier has undertaken to meet the implementation schedule prior to requesting an extension of time;

(3) An identification of the particular switches for which the extension is requested;

(4) The time within which the carrier will complete deployment in the affected switches; and

(5) A proposed schedule with milestones for meeting the deployment date.

(f) The Chief, Wireline Competition Bureau, shall monitor the progress of local exchange carriers implementing number portability, and may direct such carriers to take any actions necessary to ensure compliance with ~~the deployment schedule set forth in the appendix to~~ this Part 52.

~~(g) Carriers that are members of the Illinois Local Number Portability Workshop must conduct a field test of any technically feasible long term database method for number portability in the Chicago, Illinois, area. The carriers participating in the test must jointly file with the Common Carrier Bureau a report of their findings within 30 days following completion of the test. The Chief, Common Carrier Bureau, shall monitor developments during the field test, and may adjust the field test completion deadline as necessary.~~

§52.31 Deployment of long-term database methods for number portability by CMRS providers.

(a) By November 24, 2003, all covered CMRS providers must provide a long-term database method for number portability, including the ability to support roaming, in the 100 largest MSAs, as defined in §52.21(a), in compliance with the performance criteria set forth in §52.23(a) of this part, in switches for which another carrier has made a specific request for the provision of number portability, subject to paragraph (a)(1) of this section. A licensee may have more than one CMRS system, but only the systems that satisfy the definition of covered CMRS are required to provide number portability.

(1) Any procedure to identify and request switches for development of number portability must comply with the following criteria:

(i) Any wireline carrier that is certified (or has applied for certification) to provide local exchange service in a state, or any licensed CMRS

provider, must be permitted to make a request for deployment of number portability in that state;

~~(ii) Carriers requesting deployment in the 100 largest MSAs by November 24, 2003 must submit requests by February 24, 2003.~~

(iii) A covered CMRS provider must make available upon request to any interested parties a list of its switches for which number portability has been requested and a list of its switches for which number portability has not been requested;

(iv) After November 24, 2003, a covered CMRS provider must deploy number portability in additional switches serving the 100 largest MSAs upon request within the following time frames:

(A) For remote switches supported by a host switch equipped for portability (“Equipped Remote Switches”), within 30 days;

(B) For switches that require software but not hardware changes to provide portability (“Hardware Capable Switches”), within 60 days;

(C) For switches that require hardware changes to provide portability (“Capable Switches Requiring Hardware”), within 180 days; and

(D) For switches not capable of portability that must be replaced (“Non-Capable Switches”), within 180 days.

(v) Carriers must be able to request deployment in any wireless switch that serves any area within the MSA, even if the wireless switch is outside that MSA, or outside any of the MSAs identified in the Appendix to this part.

(2) By November 24, 2002, all covered CMRS providers must be able to support roaming nationwide.

(b) By December 31, 1998, all covered CMRS providers must have the capability to obtain routing information, either by querying the appropriate database themselves or by making arrangements with other carriers that are capable of performing database queries, so that they can deliver calls from their networks to any party that has retained its number after switching from one telecommunications carrier to another.

~~(c) The Chief, Wireless Telecommunications Bureau, may waive or stay any of the dates in the implementation schedule, as the Chief determines is necessary to ensure the efficient development of number portability, for a period not to exceed 9 months (i.e., no later than September 30, 1999, for the deadline in paragraph (b) of this section, and no later than March 31, 2000, for the deadline in paragraph (a) of this section).~~

(c) All covered CMRS providers must make number portability available in areas outside of the 100 largest MSAs within six months after a specific request by another

telecommunications carrier in areas in which that telecommunications carrier is operating or plans to operate.

(d) Where a covered CMRS provider located outside of the 100 largest MSAs receives a specific request in an area that is subsequently included within the 100 largest MSAs, the implementation schedule in paragraph (c) of this section shall apply.

(~~d~~e) In the event a carrier subject to paragraphs (a) and (b) of this section is unable to meet the Commission's deadlines for implementing a long-term number portability method, it may file with the Commission at least 60 days in advance of the deadline a petition to extend the time by which implementation in its network will be completed. A carrier seeking such relief must demonstrate through substantial, credible evidence the basis for its contention that it is unable to comply with paragraphs (a) and (b) of this section. Such requests must set forth:

(1) The facts that demonstrate why the carrier is unable to meet our deployment schedule;

(2) A detailed explanation of the activities that the carrier has undertaken to meet the implementation schedule prior to requesting an extension of time;

(3) An identification of the particular switches for which the extension is requested;

(4) The time within which the carrier will complete deployment in the affected switches; and

(5) A proposed schedule with milestones for meeting the deployment date.

(~~e~~f) The Chief, Wireless Telecommunications Bureau, may establish reporting requirements in order to monitor the progress of covered CMRS providers implementing number portability, and may direct such carriers to take any actions necessary to ensure compliance with this deployment schedule.