

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

In the Matter of)
)
Telephone Number Portability) CC Docket No. 95-116
)
Comment Sought on Requests for Waiver)
of Wireless Local Number Portability)
Requirements)

**REPLY COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (NTCA)¹ hereby submits Reply Comments in the above-referenced proceeding. NTCA supports the requests of Choice Wireless, LC (Choice), TMP Corp. and TMP Jacksonville, LLC (TMP), and Yorkville Telephone Cooperative, Inc. and Yorkville Communications, Inc. (Yorkville), (collectively, Petitioners) that they be granted a temporary waiver of the Commission's local number portability (LNP) deadline.²

As an initial matter, it is important to note that each Petitioner is moving toward full compliance with its LNP obligations. None is requesting that it be relieved of its LNP obligations, nor is it asking for unlimited time during which to become compliant.

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 560 rural rate-of-return regulated telecommunications providers. All of NTCA's members are full service incumbent local exchange carriers (ILECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

² *Public Notice*, Comment Sought on Request for Waiver of Wireless Local Number Portability Requirements, CC Docket No. 95-116, DA 04-800 (rel. March 26, 2004)

Petitioners, like many other similarly situated small companies, are in the process of upgrading and changing out equipment to become compliant as quickly as possible.

It is ludicrous that the large wireless carriers are opposing Petitioners' temporary waiver requests with such vigor. They cite carrier and customer expectations created by the Commission's deadlines as reasons to deny the waiver. In truth, there has been little consumer demand for wireless porting and the large wireless carriers will in no way be disadvantaged by the temporary waivers of small carriers serving only a few thousand subscribers.

The way the large wireless carriers read the rules, no carrier could qualify for waiver of the LNP requirements. Nextel asks the Commission to deny the request and reaffirm that all carriers have an obligation to port as of May 24, 2004.³ Dobson asks the Commission to "protect the consumer experience."⁴ Verizon laments that a "patchwork of waivers . . . would be a recipe for consumer confusion and dissatisfaction."⁵ These large carrier arguments do not reflect an understanding of the financial, technical and staffing realities of small carriers, nor do they acknowledge that there are real, legitimate reasons for waiver of the rules.

The average NTCA member company employs just 34 people. An inconvenience to Verizon's sales force does not compare to the implementation challenges a rural wireless provider faces. The implementation difficulties are multiplied as the companies get smaller. The Commission gave carriers operating outside of the top 100 MSAs additional time to prepare for porting, recognizing their unique circumstances. There is a

³ Comments of Nextel Communications, Inc, p. 2.

⁴ Opposition of Dobson Communications Corporation, p. 2

⁵ Opposition of Verizon Wireless, p. 2.

subset of rural carriers with additional unique circumstances, such as those that must change out equipment, that require some additional time to become fully LNP compliant.

Despite the large wireless carriers' protests, the Commission recognized that there may be special circumstances that warrant relief. The Commission may waive its rules for "good cause shown."⁶ Each petition has demonstrated good cause for relief.

Petitioners and other small carriers have limited resources. It is nonsensical to punish them for not upgrading equipment prior to having clear direction from this Commission and a firm obligation to do so. Each petitioner is at the mercy of the equipment manufacturers, but each pursuing a course that that will bring it into full compliance. Unfortunately, despite their best efforts, none can reach the target date of May 24, 2004.

Nextel accuses Petitioners of being able to implement LNP, but not wanting to.⁷ In truth, each petitioner is in the process of upgrading its switches and will become LNP capable. There is no attempt to "avoid compliance."⁸

⁶ Telephone Number Portability, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352 (1996).

⁷ Comments of Nextel, p. 6.

⁸ Id.

Given the facts that the Petitioners have had unavoidable delays in becoming LNP capable, but that each is pursuing a course of full compliance, good cause exists for granting the temporary waivers. The public interest dictates this result.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Reply Comments of the National Telecommunications Cooperative Association in CC Docket No. 95-116, DA 04-800 was served on this 22nd day of April 2004 by first-class, U.S. Mail, postage prepaid, to the following persons.

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