

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

In the Matter of  
  
Telephone Number Portability

CC Docket No. 95-116

**VERIZON WIRELESS' COMMENTS ON INITIAL REGULATORY FLEXIBILITY  
ANALYSIS IN TELEPHONE NUMBER PORTABILITY PROCEEDING**

On March 11, 2005, the United States Court of Appeals for the District of Columbia Circuit remanded to the FCC the Intermodal Local Number Portability (“LNP”) Order (“Intermodal Order”),<sup>1</sup> in order for the Commission to prepare a Final Regulatory Flexibility Analysis (“FRFA”) regarding the impact of the Intermodal Order on small local exchange carriers (“LECs”). The Court stayed enforcement of the Intermodal Order against small LECs until the FCC completes its FRFA. Verizon Wireless submits the comments below on the Commission’s Initial Regulatory Flexibility Analysis (“IRFA”).<sup>2</sup> Any costs and burdens associated with offering LNP to requesting customers are reasonable and are far outweighed by the benefits that flow from competition and consumer choice. The Commission should issue a Final Regulatory Flexibility Analysis promptly and direct all carriers to provide LNP upon request.

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<sup>1</sup> *Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd. 23697 (2003). See *United States Telecom. Ass’n v. FCC*, 400 F.3d 29 (DC Cir. 2005).

<sup>2</sup> *Federal Communications Commission Seeks Comment on Initial Regulatory Flexibility Analysis in Telephone Number Portability Proceeding*, Public Notice, 20 FCC Rcd. 8616 (2005).

**I. Any Burden of Implementing LNP is Reasonable for Small Carriers.**

The IRFA identifies potential porting implementation and operational costs including personnel, updated procedures and switch software. As the Commission knows, many small LECs implemented LNP in May 2004, before the stay took effect on March 11, 2005, and yet there is no evidence that any small LEC experienced financial distress as a result of porting. Verizon Wireless has ported with over 230 small LECs. Since March 11, 75 small LECs have indicated that they will not port until the FCC makes its final RFA ruling.

Given the experience with intermodal porting, small carriers have the ability to demonstrate the extent of their porting related costs. Verizon Wireless does not believe those costs to be significant. For example, some of the necessary switch-related software upgrades were included in other standard switch upgrade patches, so some small carriers already have the software installed in their switches. The methods and procedures for intermodal porting are now well known, as larger LECs have been porting with wireless carriers for almost two years and numerous vendors are willing and able to assist new entrants through LNP service bureaus or other technical assistance. Intermediaries such as John Staurulakis, Inc. (“JSI”) are also available to assist small carriers in completing porting arrangements with wireless carriers and making necessary notifications with the NPAC.

While there may be personnel expense associated with porting, if the porting volumes are low (as many small LECs predict) then the related personnel demand will not be high. If there are only a few ports per day, one staff person can handle the ports on a manual basis in the time interval set by the FCC. If volumes grow over time, third party services can assist with the porting process if a small carrier does not want to expand its staffing.

Overall, porting with small carriers is a simple process. It can be handled manually if volumes are low. Often times the most challenging part of intermodal porting is obtaining valid contact information, i.e., where to send the porting request. Once a porting relationship is established, port requests can be resolved quickly and with little burden or expense. Verizon Wireless' average time to receive a firm order commitment ("FOC") from a small LEC is 4.26 days and the average total porting time of 10 days. While smaller LECs should be working to meet the 4-day intermodal porting interval, a port delayed is better than a port denied (or not even attempted).

To the extent there are costs to implementing LNP, the FCC has provided for a cost recovery mechanism for LECs. LECs are allowed to impose a customer surcharge for up to five years to recover the costs on LNP implementation.<sup>3</sup> If the FCC determines in this proceeding that the costs for smaller carriers are more significant than for larger LECs, the FCC could consider extending the cost recovery period for small entities. Moreover, to the extent the small entities are rate of return carriers and/or recipients of federal and state universal service, they may also recover network upgrade and implementation costs through their rate base or through USF subsidies. Therefore, it is not enough to consider whether carriers will bear costs when implementing LNP — the more relevant issue is whether they will be able to recover their costs and operate efficiently. Customers should not be denied the opportunity to port, particularly when, as here, small carriers have explicit cost recovery mechanisms available.

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<sup>3</sup> *Telephone Number Portability*, Third Report and Order, 13 FCC Rcd. 11701 (1998).

## **II. The Costs of Transporting Calls to Ported Numbers Served by Wireless Switches Outside the Rate Center Are Not Relevant to this RFA.**

The FCC correctly determined in its Intermodal Order that the rating and routing cost issues raised by rural carriers were not unique to intermodal porting and would be most appropriately handled in other ongoing interconnection proceedings.<sup>4</sup>

The same transport issues are implicated when a wireless number is ported from one wireless carrier that has interconnection facilities or numbering resources in the ILEC's rate center to another wireless carrier that does not have numbering resources and/or interconnection facilities there. In that situation, small LECs are completing calls from their customers to wireless customers with ported numbers, even if the wireless carrier does not have local interconnection with the LEC.<sup>5</sup> The D.C. Circuit Court of Appeals rejected appeals from small rural carriers to stay wireless-to-wireless porting.<sup>6</sup> Today wireless carriers are actively porting with each other in rural markets, customers are benefiting and rural LECs are recovering their transport costs either from their customers, other carriers or through federal and state universal service subsidies. Therefore, the answer to the small LEC's concerns over routing costs is not to deny customers the opportunity to port their numbers, but rather to finalize a decision on intercarrier compensation to ensure that carriers are appropriately compensated for their services.

Given that many small LECs had already implemented porting before the stay was issued, and that LECs face comparable transport obligations in other situations, there should be

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<sup>4</sup> *Intermodal Order* at ¶ 40. Verizon Wireless urges the Commission to finalize its deliberations in the related interconnection proceedings for the benefit of all carriers and customers.

<sup>5</sup> The Commission has correctly moved swiftly to sanction LECs that fail to route traffic properly to ported numbers. *See, e.g., CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of Inter Island, Inc.*, Notice of Apparent Liability for Forfeiture, 19 FCC Rcd. 8543 (2004).

ample information available for small LECs to demonstrate the potential transport costs from carrying a call from a LEC local calling area to a wireless rate center within the LATA<sup>7</sup> (but outside the LEC's local calling area). Verizon Wireless does not believe these costs are significant or that they warrant denying LNP to small carriers' customers. Verizon Wireless is not aware of any technical reasons why ported calls cannot be routed and completed over trunk groups that exist today. The incremental cost of transporting a call outside of a local service area could be limited to the cost to transit a call through the LATA tandem switch.

### **III. Until This RFA Is Completed and the Stay Is Lifted, Wireline Customers Are Being Harmed.**

The Commission has firmly and consistently held since its first orders implementing the Telecommunications Act of 1996 that LNP is necessary to protect the public interest<sup>8</sup> by granting a right to wireline as well as wireless customers to move to another carrier while keeping their number. Millions of customers have availed themselves of wireless LNP since it was launched in November 2003. Customers can move more freely between carriers and can take their numbers with them. Wireless carriers, large and small, made investments in their networks and operations to implement effective porting systems and the investment has paid off

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<sup>6</sup> *Central Texas Tel. Coop., Inc. v. FCC*, 402 F.3d 205 (DC Cir. 2004).

<sup>7</sup> The Intermodal Porting Order clarified that its "ruling is limited to porting within the LATA where the wireless carrier's point of interconnection is located, and does not require or contemplate porting outside of LATA boundaries." *Intermodal Order* ¶ 28, fn. 75. Therefore, any examples of burdensome costs of transporting calls to other states are without merit — the geographic range of porting is limited by the LATA boundaries.

<sup>8</sup> *See, e.g., Telephone Number Portability*, First Report & Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8366-68 (1996); *Telephone Number Portability; Cellular Telecommunications and Industry Association's Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations*, Memorandum Opinion and Order, 14 FCC Rcd 3092, 3103 (1999).

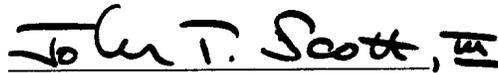
for customers. Many landline customers also have benefited from intermodal LNP, including the customers of small LECs who ported their numbers before the stay took effect and customers of larger LECs to whom the stay does not apply. During the first 15 months of intermodal LNP, Verizon Wireless ported in over 75,000 numbers from landline customers. While not a large percentage of Verizon Wireless' total ports, the porting opportunity was significant to each one of those customers. In 2005, Verizon Wireless experienced a steady increase in intermodal volume before the stay took effect. Intermodal small carrier volume increased 10% from January through March 2005, as customers became more aware of the benefits of intermodal porting.

The intermodal stay is not just harming customers of small LECs, it is also impeding wireless to wireless porting in some rural areas where wireless carriers serve customers with "Type 1" numbers located within a LEC switch. Wireless customers with Type 1 numbers do not know what type of number they have and do not understand why they are unable to port their wireless numbers. Verizon Wireless estimates that port requests from over 50 customers are denied each month because small LECs are unwilling to facilitate a port of a Type 1 number between wireless carriers.

Hundreds of small LECs have implemented intermodal porting cost-effectively. There is no justification to deny customers of smaller LECs the benefits of competition and consumer protection that flow from LNP. Verizon Wireless urges the FCC to complete the RFA analysis promptly and to order all carriers to implement and offer LNP.

Respectfully submitted,

VERIZON WIRELESS

A handwritten signature in black ink that reads "John T. Scott, III". The signature is written in a cursive style with a horizontal line underneath the name.

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