Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
BellSouth Corporation	)	RM-11299
	)	
Petition for Rulemaking to Change the Distribution Methodology for Shared Local Number Portability and Thousands-Block Number Pooling Costs	)	

To: The Commission

REPLY COMMENTS OF CINGULAR WIRELESS LLC

Cingular Wireless LLC ("Cingular") presents the following reply comments in the above-captioned proceeding regarding BellSouth's Petition for Rulemaking to replace the Commission's current revenues-based cost allocation methodology for shared industry costs of local number portability ("LNP") and thousands-block number pooling ("pooling") with a mechanism based on usage or transactions.[1] As discussed in greater detail below, Cingular agrees that the market and carriers' use of the LNP infrastructure have changed since the existing rule was adopted, such that a reassessment of the cost recovery mechanism is justified.

[1] BellSouth Corporation Petition for Rulemaking to Change the Distribution Methodology for Shared Local Number Portability and Thousands-Block number Pooling Costs RM-11299 (filed Nov. 3, 2005) (the "Petition"). *See also Pleading Cycle Established for Comments on BellSouth Corporation's Petition for Rulemaking to Change the Distribution Methodology for Shared Local Number Portability and Thousands-Block Number Pooling Costs*, RM-11299, Public Notice, DA 05-3008 (rel. Nov. 21, 2005) (the "Public Notice").

As the Petition and some comments accurately describe, the market has changed considerably in the last several years.[2] Most carriers' LNP deployments have been completed, and carriers are now familiar and comfortable with pooling as a number conservation mechanism. Although data on CLEC market share are not yet available for 2005, there can be no question that CLECs have captured a larger share of the market (especially the lucrative business market) than they had in 1998 when the current cost recovery mechanism was adopted.[3] Wireless competition is extraordinarily robust, and an increasing percentage of consumers consider their wireless phone to be their primary phone; some have eliminated their wireline service altogether.[4] Other competitors also are rapidly gaining market share – most notably voice over Internet protocol ("VoIP"), which now boasts close to 4 million subscribers.[5] These changes suggest a reassessment of the LNP and pooling cost recovery mechanisms may be appropriate.

Perhaps more significantly, however, carriers' uses of the LNP and pooling database have broadened so that many transactions processed by the system have nothing to do with number portability or number pooling. As Verizon observes, carriers increasingly use the LNP

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[2] *See, e.g.*, Petition at 11-14; AT&T, Inc. comments at 3-5; Verizon comments at 2-4.

[3] *See* Petition at 12, AT&T, Inc. comments at 3-4; Verizon comments at 2-3. *Cf.* Time Warner comments at 5-6; Cox comments at 4-5.

[4] *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, WT Docket No. 05-71, Tenth Report, FCC 05-173 at ¶¶ 196-97 (rel. Sept. 30, 2005).

[5] *See, e.g.*, Robert Poe, "VoIP Subscribers Want More Than One Line," *VoIP Magazine* (Nov. 7, 2005) (available at http://www.voip-magazine.com/content/view/576/) (3.9 million at year-end 2005); Steve Taylor and Larry Hettick, "VoIP Subscribers Up Dramatically," *Network World* (Nov. 30, 2005) (available at http://www.networkworld.com/newsletters/converg/-2005/1128converge2.html) (3.6 million in 2Q05).

infrastructure for purely internal purposes.[6] Carriers use "intra-service provider transactions" to move customers among switches when they implement technology upgrades, to offer optional location portability, or to perform other network or service grooming functions.[7]

This evolution in the use of the LNP infrastructure largely moots the debates about the state of the competitive local market and the relevance of the public benefits of LNP and pooling. The CLEC commenters, T-Mobile, and the Connecticut Commission all argue that the competitive market is not yet as mature as BellSouth asserts, such that imposing the costs of porting on the carriers that port new customers onto their networks would be inequitable and create a barrier to entry.[8] They also argue that portability and pooling support public goods (competition and number conservation, respectively), which they argue militates in favor of spreading the costs based on market share (as represented by revenues) rather than database usage.[9]

As noted above, however, the record reflects that nearly half of the LNP database transactions today are not related to LNP or pooling. As a result, even accepting the competitive arguments *arguendo*, it is clear that the Commission must begin a proceeding to re-examine the cost allocation methodology.

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[6] Verizon comments at 5-8.

[7] *Id.*

[8] *See, e.g.,* Time Warner comments at 5-6; Cox comments at 4-5; Connecticut DPU comments at 3-4; T-Mobile comments at 3-6.

[9] *See, e.g.,* T-Mobile comments at 9-15; Time Warner comments at 10-13;

CONCLUSION

The market has evolved substantially since the Commission adopted the current revenues-based cost allocation methodology for LNP and pooling. More importantly, however, carriers' use of the LNP and pooling databases also has changed. Carriers now use these databases substantially for internal network configuration and maintenance purposes, unrelated to porting or pooling. As a result, the Commission should commence a proceeding to study whether a methodology tied to transactions is more equitable, at least in some cases.

Respectfully submitted,

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February 6, 2006