

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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In the Matter of)	
)	
Telephone Number Portability)	CC Docket No. 95-116
)	
)	

PETITION FOR DECLARATORY RULING

T-Mobile USA, Inc. (“T-Mobile”), and Sprint Nextel Corporation (“Sprint”) (collectively “Petitioners”), pursuant to section 1.2 of the Commission’s rules,¹ hereby submit this Petition for Declaratory Ruling and request that the Commission remove uncertainty and end an ongoing controversy regarding the Commission’s requirement that only “necessary” validation procedures be utilized in the porting process. In particular, Petitioners seek a ruling that all carriers obligated to provide number portability may not obstruct or delay the porting process by demanding from the porting-in carrier information in excess of the minimum information needed to validate the requesting customer. Such a ruling will clarify carrier obligations and, in the process, facilitate porting and competition to the benefit of consumers.

INTRODUCTION AND SUMMARY

In 1996, Congress added section 251(b)(2) to the Communications Act, which requires all local exchange carriers (“LECs”) to offer number portability in accordance with Commission-prescribed requirements.² In implementing that mandate, the Commission decided the public interest would be served by extending the portability requirement to wireless carriers as well as

¹ See 47 C.F.R. § 1.2 (“The Commission may . . . issue a declaratory ruling terminating a controversy or removing uncertainty.”).

² See 47 U.S.C. § 251(b)(2).

LECs.³ According to the Commission, the competition resulting from portability “should foster lower local telephone prices and, consequently, stimulate demand for telecommunications services and increase economic growth.”⁴

The Commission’s predictions have largely been borne out, as consumers in 2006 are much more likely to take advantage of lower price plans and innovative technologies offered by competitive carriers than they would have a decade ago. The full promise of number portability, however, will not be realized unless and until incumbent LECs also implement mechanisms that facilitate—rather than burden—the porting process. As described below, many incumbent LECs continue to impose outdated and unnecessarily arduous procedures, such as completion of port request forms with more than 100 data fields, before they will port out a number. These burdensome procedures delay the new provider’s ability to activate the number often for weeks or months, resulting in a frustrating customer experience, an unnecessarily high port cancellation rate, and ultimately, a barrier to competition.

The inefficiency of the incumbent LEC validation process is starkly highlighted when it is compared to the intramodal wireless porting mechanism in use today. For simple wireless-to-wireless ports, numbers are usually ported in a matter of hours with a nominal amount of information exchanged by the carriers. In such ports, wireless consumers are generally unable to detect any difference between changing providers with porting and changing carriers without porting — as the Commission intended when it adopted portability requirements.

The Commission need not adopt any new rules to provide the guidance Petitioners request herein. To the contrary, the Commission need only further clarify that porting-out

³ See *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 ¶ 153 (1996) (“*First Porting Order*”).

⁴ *First Porting Order* ¶ 30.

carriers may not demand information from requesting providers beyond that required to validate the customer request and accomplish the port. As discussed below, all carriers, including incumbent LECs, should validate ports using no more than four customer validation fields, limiting the validation to those fields “necessary” to the process.

DISCUSSION

In implementing section 251(b)(2) of the Act, the Commission defined the term “number portability” as “the ability of users of telecommunications services to retain at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience, when switching from one telecommunications carrier to another.”⁵ The Commission has emphasized on several occasions that the porting requirement set forth in the Act and its rules means that “consumers must be able to change carriers while keeping their telephone number as easily as they may change carriers without taking their telephone number with them.”⁶ To that end, the Commission clarified that carriers are precluded “from imposing restrictions on porting beyond necessary customer validation procedures.”⁷ Similarly, the Commission ruled that, absent an agreement to the contrary, “carriers need only share basic contact and technical information sufficient to perform the port.”⁸

Notwithstanding the unambiguous nature of the Commission’s directives, many incumbent LECs continue to impose requirements on requesting providers that go far beyond

⁵ 47 C.F.R. § 52.21(k).

⁶ See *Telephone Number Portability*, Memorandum Opinion and Order, 18 FCC Rcd 20971 ¶ 11 (2003) (“*Wireless Porting Order*”); see also *id.* ¶ 14; Letter from John B. Muleta to John T. Scott, Verizon Wireless, and Michael F. Altschul, CTIA, CC Docket No. 95-116, DA 03-2190, at 3 (Jul. 3, 2003) (“*2003 Bureau Letter*”).

⁷ *Wireless Porting Order* ¶ 14; *2003 Bureau Letter* at 3-4 (clarifying that carriers may not refuse to port while attempting to collect fees or settle an account “or for other reasons unrelated to validating a customer’s identity”).

⁸ *Wireless Porting Order* ¶ 24.

“*necessary* customer validation procedures.”⁹ For example, most incumbent LECs require their competitors to request ports by submitting Local Service Requests (“LSRs”) that contain more than 100 data fields, as illustrated by the sample Verizon and BellSouth LSR forms attached hereto as Exhibit 1.¹⁰ Each incumbent LEC uses a different LSR, and LSRs are changed as many as four times each year without prior notice to other service providers.¹¹ Among the information demanded by porting-out incumbent LECs (all of which is found in the incumbent’s own customer service record databases) are the identity of the customer’s service center; kind of service subscribed to; the incumbent’s “account category;” “line number;” and “line activity.” If just one piece of information provided by the requesting carrier via the LSR is incorrect (*e.g.*, abbreviating Avenue as “Av.” instead of “Ave.”), the incumbent LEC will reject the port request.

In contrast to these cumbersome wireline porting procedures, the wireless industry, under the auspices of the NANC, developed an expeditious and efficient porting process. For wireless-to-wireless ports, the port request contains a limited set of validation criteria, the port request is accepted or denied generally within 30 minutes, and the entire port activation is generally completed within two and a half hours.¹² Unlike the 100-plus validation fields that some incumbent LECs continue to insist upon today, the wireless industry validates a port request using just the telephone number, account number, and password (if applicable).¹³

⁹ See *Wireless Porting Order* ¶ 14 (emphasis added).

¹⁰ See also *Ex Parte* Presentation of T-Mobile USA, Inc., CC Docket No. 95-116 (April 19, 2005); Reply Comments of T-Mobile at 11, CC Docket 95-116 (filed Dec. 17, 2004) (“*T-Mobile Dec. 17, 2004 Reply Comments*”).

¹¹ *Id.*; see also Comments of T-Mobile at 5, CC Docket 95-116 (filed Nov. 17, 2004) (“*T-Mobile Nov. 17, 2004 Comments*”); *T-Mobile Dec. 17, 2004 Reply Comments* at 12.

¹² NANC Wireless Number Portability Technical, Operational, and Implementation Requirements Report (approved by NANC and forwarded to FCC September 2000).

¹³ Wireless carriers initially specified nine validation fields, but soon found that requiring the exchange of even that amount of information was causing excessive backlog. Accordingly, the industry quickly reached a consensus to reduce the validation fields to four. And, just a month later, in January

The problems faced by wireless and competitive LECs in completing ports from incumbent LECs that use non-standard and lengthy validation processes translate into considerable inconvenience for consumers attempting to switch their service provider. Consumers frequently have to decide between utilizing a new provider immediately but changing numbers, or waiting a week or more to take their telephone numbers with them to the new carrier. Not surprisingly, many consumers simply give up, sticking with a service provider that they otherwise would have left or establishing wireless service using a new number. Petitioners have found that while the consumer cancellation rate for intramodal (*i.e.*, wireless-to-wireless) ports is about five percent, the cancellation rate for intermodal ports is approximately 30 percent. Through their onerous validation procedures, therefore, incumbent LECs are able to frustrate a sizable percentage of consumers wanting to port their numbers away from the incumbent. The current process may benefit incumbent carriers, but it certainly does not benefit consumers.

The burdensome porting procedures that many incumbent LECs employ also significantly raise the costs of acquiring new customers for porting-in providers. Today, approximately 50 percent of T-Mobile's intermodal port requests require the submission of a supplemental LSR before the request is validated. Sprint is also required to resubmit a high number of LSRs. Indeed, Petitioners often have to provide the same port request multiple times because incumbent LECs regularly reject the forms as soon as they identify a single error, rather than pointing out all errors in the first round.¹⁴ In addition, each time an incumbent LEC revises

2004, the wireless carriers collectively decided that there was no reason porting-out carriers needed any information beyond the two or three fields noted above to port a number. Notably, the reduction in the number of customer validation fields from nine to three has caused little, if any, increase in the number of inadvertent or fraudulent ports.

¹⁴ If an incumbent LEC finds an error in the LSR, it will respond with a "Reject", which could be either of two types: (1) the LSR as written cannot be accepted or corrected (*e.g.*, when the telephone number listed on the LSR is not a working telephone number) or (2) the LSR can be corrected (*e.g.*, "Avenue" should not have been abbreviated as "Ave."). Under the first scenario, an entirely new LSR

its LSR form, all other carriers are required to modify their systems and processes correspondingly, increasing confusion and the likelihood that ports will be rejected.

Ironically, moreover, the onerous LSR process ends up increasing the costs of the very carriers that insist on using it. Incumbent LECs have to devote personnel to review numerous versions of the same form submitted by porting-in carriers, as well as to compare the filed information with the data already contained in their own account records. Similarly, the aforementioned incumbent LEC practice of revising LSRs on a quarterly basis requires significant incumbent LEC resources. Then again, these practices are “successful” from an incumbent’s perspective because of the delay and high cancellation rate they cause — particularly when one considers that wireline-to-wireless ports outnumber wireless-to-wireline ports almost ten to one.

This state of affairs obviously frustrates the Commission’s and Congress’s primary purpose in establishing portability obligations. The Commission has repeatedly sought to foster consumer choice through porting so that customers can enjoy the greatest possible “flexibility in the quality, price and variety of telecommunications services they can choose to purchase.”¹⁵ It is clear that the system is not working when almost a third of customers cancel their wireline-to-wireless ports.

Accordingly, Petitioners respectfully request that the Commission reiterate and further clarify the ruling it made in 2003 — namely, that carriers may not impose “restrictions on

must be submitted, and under the second, the requesting carrier must research and resolve the problem, submit a supplemental LSR, and wait for the incumbent LEC’s confirmation. If the incumbent LEC finds another error, then it will return another Reject instead of a confirmation, requiring further research and submission of another supplemental LSR. This process continues until all of the data on the LSR is “error-free”.

¹⁵ *Wireline Porting Order* ¶ 30.

porting beyond necessary validation procedures.”¹⁶ To improve the porting process for consumers and to minimize the opportunity for incumbent LECs to thwart competition, the Commission should clarify that “necessary validation procedures” means that porting-out providers may demand information from porting-in providers solely to the extent such information is essential to validate the customer. The Petitioners recommend validating on just four data fields — (1) 10-digit telephone number; (2) customer account number; (3) 5-digit zip code; and (4) pass code, if applicable — regardless of the type of provider to whom the port is directed. Petitioners urge the Commission to specify that requiring information from the porting-in provider beyond these four criteria constitutes an *unnecessary* validation procedure.

CONCLUSION

Since wireless carriers implemented number portability three years ago, the industry has made great strides in porting numbers in an efficient, accurate, and expeditious manner. By contrast, the process has not worked well when incumbent LECs are on the porting-out side of the transaction. While there are several actions the Commission should take to resolve this disparity,¹⁷ this Petition focuses on a simple fix—reducing the number of validation criteria to those “necessary” for customer validation. Such a limitation comports with existing Commission requirements, and would likely minimize port fallout and decrease significantly the

¹⁶ See *Wireless Porting Order* ¶ 14.

¹⁷ Petitioners also urge the FCC to take action on two outstanding proceedings before the Commission that, together with this Petition, will markedly improve the current state of intermodal porting. First, the Commission should codify the NANC Porting Interval Recommendation. See NANC Report & Recommendation on Intermodal Porting Intervals (May 3, 2004). Second, the FCC should issue its final regulatory flexibility analysis on the intermodal porting requirements of small LECs. See *Federal Communications Commission Seeks Comment on Initial Regulatory Flexibility Analysis in Telephone Number Portability Proceeding*, Public Notice, 20 FCC Rcd 8616 (2005).

time frame within which customers can activate numbers with their chosen provider. Grant of Petitioners' requested ruling would foster competition and serve the public interest.¹⁸

Respectfully submitted,

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¹⁸ For the Bureau's convenience, a draft Public Notice seeking comment on this Petition is attached hereto as Exhibit 2.