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

In the Matter of	)	
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
Petition of T-Mobile USA, Inc. and Sprint Nextel Corporation for Declaratory Ruling	)	

INITIAL COMMENTS OF
THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

In response to the Public Notice released on January 9, 2007,[1] the National Association of State Utility Consumer Advocates ("NASUCA")[2] hereby submits its initial comments on the petition for a declaratory ruling filed on December 20, 2006 by T-Mobile USA, Inc. and Sprint Nextel Corporation (collectively "Petitioners").

Petitioners:

> request that the [Federal Communications] Commission make clear that carriers obligated to provide number portability may not obstruct or delay the porting process by demanding information from requesting carriers beyond that required to validate the customer request and accomplish the port. Petitioners maintain

[1] Public Notice, DA-07-39 (January 9, 2007).

[2] NASUCA is a voluntary association of advocate offices in more than 40 states and the District of Columbia, incorporated in Florida as a non-profit corporation. NASUCA's members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. *See, e.g.*, Ohio. Rev. Code Ch. 4911; 71 Pa. Cons. Stat. Ann. § 309-4(a); Md. Pub. Util. Code Ann. § 2-205; Minn. Stat. § 8.33; D.C. Code Ann. § 34-804(d). NASUCA members operate independently from state utility commissions as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (*e.g.*, the state Attorney General's office). NASUCA's associate and affiliate members also serve utility consumers, but are not created by state law or do not have statewide authority.

> that some carriers request excessive amounts of information as part of the porting process' creating significantly longer times for ports and a correspondingly higher number of cancellations of changes of service. Petitioners argue that this frustrates Congressional and Commission intent by discouraging competition.[3]

NASUCA supports Petitioners' desire to reduce barriers to consumers' transitions between carriers, but believes that there needs to be a balance between reducing barriers and reducing protections against slamming. There is still a possibility, although less than in the interexchange market, of number porting requests that are contrary to the desire of the consumer. Therefore, NASUCA will await review of any comments filed opposing the Petition to make a recommendation on the Petition here.

In these initial comments, however, NASUCA brings to the Commission's attention a parallel situation ruled on in 2005. In a Declaratory Ruling released June 9, 2005, the Acting Chief of the Consumer and Governmental Affairs Bureau denied the petition for a declaratory ruling filed by a coalition of rural local exchange carriers ("LECs").[4] The rural LECs had requested a declaratory ruling approving their practices in rejecting carrier change submissions when information in the submissions differed from that in the rural LECs' records.[5] Instead, the Declaratory Ruling held that "[t]he executing carrier may not make an independent determination regarding whether the person authorizing the switch was an authorized agent of the party identified on the

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[3] DA 07-37 at 1.

[4] *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers; LEC Coalition Request for Declaratory Ruling Regarding Carrier Change Verification*, CC Docket No. 94-129, Declaratory Ruling, DA 05-1618 (rel. June 9, 2005) ("*94-129 Dec. Ruling*"). On July 8, 2005, the rural LECs filed a Petition for Review of the Declaratory Ruling; it does not appear that the Commission has ever acted on that Petition for Review.

[5] Id.. ¶ 3.

executing carrier's account."[6] The Declaratory Ruling noted that in the *94-129 Second Report and Order*, although the Commission had held that "allowing executing carriers to re-verify carrier change requests could help to deter slamming, it ultimately concluded that the anti-competitive effects of re-verification outweighed the potential benefits."[7]

The Commission later asked for public comment on the rural LECs' Petition for Review of the Bureau decision.[8] NASUCA submitted initial and reply comments. The Commission has not acted on the rural LECs' petition.

In the case of the rural LECs' petition, there was a reasonable concern that the rural LECs' practices served to discourage unauthorized carrier changes.[9] NASUCA agrees that the possibility of interference with carrier changes is also a valid concern.

The industry has considerably less experience with LNP than it does with the interexchange carrier changes that were the subject of the *94-129 Declaratory Ruling*. That alone is not enough to answer the question, however. Based on the Petitioners' description here of the LNP changes processes, it does not appear that the information being required by porting carriers is designed for consumer protection. The Commission should seek to ensure that information required as a condition of porting numbers to the consumers' intended new carrier serves to effectively and efficiently guard against unauthorized requests while avoiding unnecessary delays.

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[6] Id., ¶ 8.

[7] Id., ¶ 6, citing 94-129, Second Report and Order and Further Notice of Proposed Rule Making, 14 FCC Rcd 1508, 1564-65, ¶ 99 (1998) ("*94-129 Second Report and Order*").

[8] Public Notice, 71 Fed. Reg. 5338 (2006).

[9] *94-129 Declaratory Ruling*, ¶ 4.

CONCLUSION

NASUCA urges the Commission to balance easing consumers' transitions between carriers, with maintaining adequate protections against unauthorized carrier changes. NASUCA looks forward to weighing the options presented by those on both sides of the issue, with the hope of providing a more specific recommendation in reply comments.

Respectfully submitted,

Charles A. Acquard, Executive Director
NASUCA
8380 Colesville Road, Suite 101
Silver Spring, MD 20910
Phone (301) 589-6313
Fax (301) 589-6380

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