

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

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

**OPPOSITION OF TIME WARNER TELECOM INC., CBeyond, INC. AND ONE  
COMMUNICATIONS CORP.**

**WILLKIE FARR & GALLAGHER LLP**  
1875 K Street, N.W.  
Washington, D.C. 20006  
(202) 303-1000

February 8, 2007

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

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

**OPPOSITION OF TIME WARNER TELECOM INC., CBeyond, INC. AND ONE COMMUNICATIONS CORP.**

Time Warner Telecom Inc., Cbeyond, Inc. and One Communications Corp. (hereinafter the “Joint Commenters”), by their attorneys, hereby submit this Opposition to the petition for declaratory ruling filed by T-Mobile USA, Inc. and Sprint Nextel Corporation in the above-referenced proceeding.<sup>1</sup>

In their *Petition*, T-Mobile and Sprint seek a Commission ruling that “all carriers,” including wireline carriers, subject to the obligation to port numbers follow the process currently used in wireless-wireless intramodal porting, in which wireless carriers exchange no more than four data fields (the customer’s 10-digit telephone number, account number, 5-digit zip code, and a pass code) when porting numbers. Although the goal of more uniform and efficient processes for porting wireline numbers is certainly laudable, the *Petition* must be rejected. The issue addressed in the *Petition* is inappropriate for a declaratory ruling. Moreover, the petitioners’ proposal for improving the wireline porting process would do more harm than good. If

---

<sup>1</sup>See T-Mobile USA, Inc. and Sprint Nextel Corporation Petition for Declaratory Ruling, CC Dkt. No. 95-116 (filed Dec. 20, 2006) (“*Petition*”).

implemented without massive changes to carrier operations support systems (“OSS”), the petitioners’ proposal would strip the porting process for wireline business customers of needed protections (which result in the exchange of more data fields than petitioners would like) against the potentially serious consequences of incorrectly ported numbers. Eliminating the need to exchange many of the data fields currently used when porting wireline business numbers would require prohibitively expensive changes to existing carrier OSS. Moreover, the FCC is not the appropriate forum for addressing the complex technical issues associated with designing such changes for the industry. Those issues are most appropriately, and are currently being, addressed by industry standard-setting groups. The *Petition* should therefore be denied.

It is important to emphasize that the Joint Commenters agree that competition and consumer welfare benefit from reducing the amount of data that must be exchanged between carriers to effectuate intermodal and intramodal ports. Indeed, the current industry process for porting wireline telephone numbers could be made more efficient by standardizing the interfaces used to exchange information electronically for wireline porting and by reducing the number of data fields that must be exchanged for wireline porting. But the *Petition* does not present an appropriate vehicle for addressing this issue.

To begin with, the petition is procedurally improper. As the petitioners correctly state, under Section 1.2 of its rules, “[t]he Commission may...issue a declaratory ruling terminating a controversy or removing uncertainty.” *Petition* n. 1 (citing 47 C.F.R. § 1.2). The *Petition* fails to meet the standard of a declaratory ruling because it does not address an area of “controversy” or “uncertainty.” Petitioners state that they “request that the Commission reiterate and further clarify the ruling made in 2003 -- namely, that carriers may not impose ‘restrictions on porting

beyond the necessary [customer] validation procedures.”<sup>2</sup> Yet, as the FCC stated in the 2003 order, “the guidance [provided by the FCC] is applicable to wireless-wireless porting only.”<sup>3</sup> The Commission clearly stated in that order that “we intend to address issues related to wireline - wireless porting in a separate Order.” *Id.* There is therefore no “controversy” or “uncertainty” as to whether the FCC’s statement in the 2003 order “restrictions on porting beyond the necessary [customer] validation procedures” applies to porting wireline numbers to wireless carriers-- the focus of the *Petition*. The FCC has already clarified that the statement in the 2003 order *does not* apply in that context. Accordingly, the *Petition* must be denied because it does not meet the standard of 47 C.F.R. § 1.2 governing declaratory rulings.

In any event, there is no basis for establishing a federal mandate that wireline carriers serving business customers exchange only the four data fields proposed in the *Petition* when porting numbers. Reliability is a much more serious concern for wireline number porting than is the case with wireless number porting. While an incorrectly ported wireless number can simply be ported back to the wireless carrier, with little consequence other than a short service disruption, an incorrectly ported wireline number can have catastrophic consequences because of the services and facilities that may be associated with that number. The petitioners’ request that the wireless porting process apply to wireline numbers would deprive wireline carriers of the information needed to reliably port customers given wireline carriers’ inherently more complex systems and service offerings.

---

<sup>2</sup> *Petition* at 6-7.

<sup>3</sup> See *Telephone Number Portability*, Memorandum Opinion and Order, 18 FCC Rcd 20971 ¶ 1 (2003) (“*Wireless Porting Order*”).

There are several different contexts in which wireline number ports are incorrectly or inappropriately requested. In some cases incorrect porting requests result from human error, for example where the new service provider's ("NSP") employee types one of the ported number's digits incorrectly. In other cases, porting request errors are the result of affirmative malfeasance, as is the case with slamming and where a former employee or partner seeks to port a number assigned to his or her former business (a situation that arises with surprising regularity).

If this conduct is not identified before a port actually occurs, serious consequences may follow. The most serious consequences follow where the lead number in a business customer's DID range is incorrectly ported. If this were to occur, (1) all of the numbers associated with the DID range at issue would be ported and an entire business might lose phone service; (2) ANI information including E-911 data associated with that main line would not be included on outbound calls, potentially causing 911 calls to route to the wrong PSAP with missing or incomplete location data; (3) all toll free numbers terminating to the main line could also either be routed improperly or rejected by the new carrier; and (4) after hours call forwarding to answering services would no longer function. Moreover, the incorrect porting of any business number can have far-reaching consequences because the business cannot communicate with its customers, clients or patients, and the business can even lose reliable E911 connectivity. In all of these cases, fixing the problem is a slow process since the business line in question is out of service until the customer contacts its service provider and possibly PBX vendor to re-establish service, and such service reestablishment normally takes days.

The current practice of exchanging numerous data fields for wireline porting substantially diminishes the chances that incorrect or inappropriate wireline porting requests result in incorrect or inappropriate number porting. For example, a data field in the standard local service request

(“LSR”) indicates used in wireline porting addresses whether the new customer’s number is associated with a DID range and that fact must be verified. As a result carriers are likely to catch typing mistakes associated with DID numbers before the port occurs. Other required data fields address similar problems in other contexts that arise with wireline porting. Therefore, with respect to at least wireline carriers, the transmission and verification of such information is clearly a “necessary customer validation procedure[.]” See *Wireless Porting Order* ¶ 14.

Moreover, it would be prohibitively expensive for wireline carriers to upgrade their networks to reliably execute ports by exchanging only a handful of data fields. The NANC found that unifying the standard for the exchange of porting information for only simple ports<sup>4</sup> and transmitting *only* 11 pieces of data for such simple ports could reduce porting intervals for wireline service. See *NANC Report* 27-28. But NANC did not recommend this solution because, among other things, it would cost the industry up to \$1 billion to implement. See *id.* at 53. Indeed, it could be that reducing the number of fields to four for all wireline telephone numbers would be even more costly.

---

<sup>4</sup> NANC explains the difference between simple and complex ports as follows: “Simple ports are defined as those ports that: do not involve unbundled network elements, involve an account for a single line (porting a single line from a multi-line account is not a simple port), do not include complex switch translations (e.g., Centrex or Plexar, ISDN, AIN services, remote call forwarding, multiple services on the loop), may include CLASS features such as Caller ID, and do not include a reseller. All other ports are considered ‘complex’ ports.” *NANC Report and Recommendation on Intermodal Porting Intervals* at 58 (May 3, 2004) (“*NANC Report*”). It is important to emphasize that, regardless of how NANC may interpret this definition, a port should only be characterized as “simple” if it does not “involve” or “include” the facilities and functionalities listed in the NANC definition on either the porting in or porting out side. Thus, only if neither the old service provider or the NSP uses or will use a UNE to serve the customer, serves or will serve the customer using a multi-line account, and so forth, can a port be considered “simple.”

Nor is it appropriate for the FCC even to address these complex issues. The most appropriate means of seeking industry input on streamlining the porting process for wireline numbers and of resolving difficult technical issues associated with wireline number porting -- intermodal or otherwise -- is through review of the LSR and/or associated processes and procedures by industry standards-setting organizations. The FCC has long recognized that highly technical issues related to number portability such as those addressed in the *Petition* should be left to the expertise of standards-setting organizations.<sup>5</sup> The FCC does not have the resources or the expertise to wade through such issues and standards-setting organizations offer a way for industry participants to come to a consensus as to the wisdom and technical feasibility of LNP implementation issues.

Indeed, the relief that the petitioners seek is currently pending before the appropriate standards setting organization. For example, Sprint and T-Mobile, among others, have submitted several issues related to information that must be transmitted in a port request to the Ordering and Billing Forum (“OBF”) of ATIS.<sup>6</sup> In 2005, Sprint submitted issue #2943, “Minimal Data

---

<sup>5</sup> See e.g., *Telephone Number Portability et al.*, Memorandum Opinion and Order, 18 FCC Rcd 23697, ¶ 12 (2003) (relying on the fact that “[t]he NANC submitted a second report on the integration of wireless and wireline number portability to the Commission in 1999, and a third report in 2000, both focusing on porting interval issues.”).

<sup>6</sup> According its website, “ATIS is a United States based body that is committed to rapidly developing and promoting technical and operations standards for the communications and related information technologies industry worldwide using a pragmatic, flexible and open approach... ATIS creates solutions that support the rollout of new products and services into the communications marketplace. Its standardization activities for wireless and wireline networks include interconnection standards, number portability, improved data transmission, Internet telephony, toll-free access, telecom fraud, and order and billing issues, among others. ATIS is accredited by the American National Standards Institute (ANSI).” <http://www.atis.org/about.shtml>.

Exchange Number Portability Service Request” to the OBF. Forum members were asked to determine the data fields that are necessary for a “simple port.” Over a dozen separate fields were identified by subcommittee members as necessary for even a “simple” port. The intermodal subcommittee has since identified two other open issues currently under consideration (#3024 and #3029) related to the streamlining of data necessary for porting. The subcommittee has agreed that issue #2943 should remain open until issues #3024 and #3029 are resolved. All three issues remain active at OBF and progress continues to be made towards their resolution. The FCC should not short-circuit this consensus-driven process by issuing its own rules in the absence of detailed technical expertise. Moreover, absent evidence that firms with market power have abused the standards-setting process to slow-roll competition, Sprint and T-Mobile should not be permitted to “forum shop” at the FCC if the informed judgment of the industry standards-setting organizations does not resolve the issue addressed in the *Petition* to their liking.

For all of these reasons, the *Petition* should be rejected as both procedurally and substantively improper.

Respectfully submitted,

/s/Thomas Jones

Thomas Jones  
Jonathan Lechter  
WILLKIE FARR & GALLAGHER LLP  
1875 K Street, N.W.  
Washington, D.C. 20006  
(202) 303-1000  
ATTORNEYS FOR  
TIME WARNER TELECOM, CBeyond AND  
ONE COMMUNICATIONS

February 8, 2007