

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

<i>In the Matter of</i>)	
<i>Telephone Number Portability</i>)	CC Docket No. 95-116
<i>T-Mobile USA, Inc., and Sprint Nextel Corporation</i>)	
<i>Petition for Declaratory Ruling</i>)	[DA 07-39]

**REPLY COMMENTS OF
THE NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS**

On January 9, 2007, the Federal Communications Commission (“FCC” or “Commission”) noticed for comment a December 20, 2006, T-Mobile USA, Inc. (“T-Mobile”), and Sprint Nextel Corporation (“Sprint”) filed a Petition for Declaratory Ruling asking the FCC to end an ongoing controversy regarding the Commission’s requirement that only “necessary” validation procedures be utilized in the porting process.¹ Specifically, 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.”

On February 21, 2007, the National Association of Regulatory Utility Commissioner (“NARUC”) passed a resolution relevant to this proceeding. A copy of that resolution is appended to this pleading. NARUC joins generally the initial January 2007 comments filed by its members in California, Nebraska, and Iowa insofar as they encourage the FCC to establish “...a simple and uniform industry porting process.”

¹ “PLEADING CYCLE ESTABLISHED FOR COMMENTS ON T-MOBILE USA, INC. AND SPRINT NEXTEL CORPORATION’S PETITION FOR DECLARATORY RULING REGARDING NUMBER PORTABILITY”, DA 07-39, (Jan. 9, 2007) Available online at: <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-07-39A1.doc>.

In support of this position, NARUC states as follows:

NARUC’S INTEREST

NARUC is a nonprofit organization founded in 1889. In the federal Telecommunications Act,² Congress references NARUC as “the national organization of the State commissions” responsible for economic and safety regulation of the intrastate operation of carriers and utilities.³ Congress and the courts have consistently recognized NARUC as a proper entity to represent the generic interests of the State public utility commissions.

BACKGROUND

In 1996, Congress added section 251(b)(2) to the Communications Act. That section requires all local exchange carriers (“LECs”) to offer number portability as per FCC rules.⁴ In 1996, the Commission determined that the public interest would be served by extending the portability requirement to wireless carriers as well as LECs.⁵ NARUC strongly supported this FCC initiative. We filed numerous pleadings agreeing with the FCC’s assessment that the competition resulting from portability “should foster lower local telephone prices and, consequently, stimulate demand for telecommunications services and increase economic growth.”⁶ As the attached resolution makes clear, NARUC agrees the process should be uniform throughout the industry and relatively simple to implement. If the Petitioner’s factual allegations are accurate, some immediate FCC action is warranted.

² *Communications Act of 1934*, as amended by the *Telecommunications Act of 1996*, 47 U.S.C. §151 *et seq.*, Pub.L.No. 101-104, 110 Stat. 56 (1996) (West Supp. 1998) (“Act” or “1996 Act”).

³ See 47 U.S.C. § 410(c) (1971) (NARUC nominates members to FCC Joint Federal-State Boards which consider universal service, separations, and related concerns and provide formal recommendations that the FCC must act upon); Cf. 47 U.S.C. § 254 (1996) (describing functions of the Joint Federal-State Board on Universal Service). Cf. *NARUC, et al. v. ICC*, 41 F.3d 721 (D.C. Cir 1994) (where the Court explains “...Carriers, to get the cards, applied to...(NARUC), an interstate umbrella organization that, as envisioned by Congress, played a role in drafting the regulations that the ICC issued to create the “bingo card” system.)

⁴ See 47 U.S.C. § 251(b)(2).

⁵ See *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 ¶ 153 (1996) (“*First Porting Order*”).

⁶ *First Porting Order* ¶ 30.

DISCUSSION

The ability of any carrier to effectively “port in” a customer is directly tied to the practices of the carrier that will be “porting out” the customer. Petitioners allege that some carriers have adopted practices which complicate and prolong the “porting out” process, thus hindering the effectiveness of competition. They point out that these practices, in fact, delay a competitor’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.” *Id* at 4.

Two undisputed facts from the T-Mobile-Sprint petition suggest some action is warranted with respect to LEC porting procedures.

The first is pointed out by petitioners on page 3 of their petition:

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.

The second, pointed out later in the petition, is the fact that wireless carriers initially required nine data fields to port a customer, then – basically because that made the process less efficient and the additional fields were not needed to protect customers’ choices, cut it to four, then three, data fields.

This is clear evidence that a less burdensome and uniform process can work quickly to protect consumers and competition in a commercial environment.

Petitioners claim that some LECs are insisting on “outdated and unnecessarily arduous procedures, such as completion of port request forms with more than 100 data fields.” *Id.* Petitioners attached to their filing a sample form with more than 100 data fields, including fields requiring input of “additional engineering,” “additional forms,” “additional labor,” and “account regrade.”

It is difficult to understand how this much information could be required to port a customer from one carrier to another. If the petitioner allegations are true, it gives credence to the Petitioners’ argument that some LECs are imposing onerous and burdensome porting requirements simply to slow their churn rates by rendering the porting process complicated and time-consuming. The churn statistics cited by Petitioners seems to bear this out. Petitioners state 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. They argue that onerous non-standard ILEC validation procedures are the root cause for the disparity in rates. At a minimum, the FCC must investigate to see if a more streamlined process, like the one that works in the wireless-to-wireless environment can work in intermodel ports.

Petitioners present a simple solution for the Commission’s consideration, noting no new rules are needed. According to the Petition, a page 2, the FCC “. . . need only further clarify that porting-out carriers may not demand information from requesting providers beyond that required to validate the customer request and accomplish the port.” The Petition suggests, based on the practices of the wireless industry, that LECs, should validate ports using no more than four customer validation fields, limiting the validation to those fields “necessary” to the process.

CONCLUSION

The FCC should immediately act to prohibit onerous and non-standard porting practices as anti-competitive and anti-consumer. The statistics on porting cited by Petitioners suggest both the Commission's and Congress's primary purpose in establishing portability obligations is being frustrated. Something must be causing almost a third of customers to cancel their wireline-to-wireless ports. The Commission should clarify its 2003 ruling that carriers may not impose "restrictions on porting beyond necessary validation procedures."⁷ It should establish a uniform industry porting process and assure that ALL service providers comply with uniform industry porting guidelines and work cooperatively with other carriers in resolving disputes.

Respectfully submitted,

*National Association of Regulatory
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⁷ See *Wireless Porting Order* ¶ 14.

APPENDIX – February 21, 2007 Resolution Concerning Local Number Portability

WHEREAS, The National Association of Regulatory Utility Commissioners (“NARUC”) has strongly supported the implementation of Local Number Portability (LNP) as an important vehicle for consumer choice; *and*

WHEREAS, LNP provides the opportunity for consumers to easily move service between LNP-capable providers while retaining their telephone number; *and*

WHEREAS, Competition in all voice services has increased the need for LNP to realize customer choice between service providers; and therefore porting of telephone numbers used by all carriers, including LECs, CLECs, wireless carriers and VoIP service providers should comply with uniform industry porting guidelines; *and*

WHEREAS, NARUC supports policies which encourage the continued advancement of competition in telecommunications markets and the ability of consumers to take their telephone number with them when they opt for a new or different provider’s products and services regardless of the type of service; *and*

WHEREAS, A simpler and more convenient process of porting numbers should be considered for adoption as the uniform industry porting process in order to accommodate further consumer ease, increase the rate of successful port completions and facilitate the further advancement of competition; *and*

WHEREAS, Various technical industry groups and bodies responsible for the setting of industry standards, such as the Alliance for Telecommunications Industry Solutions (ATIS), have been unable to resolve diverse order processing formats between providers for number porting; *and*

WHEREAS, The North American Numbering Council (NANC) has examined the wireless number portability issues on several occasions over the past eight years, most recently, in response to a request from the FCC, including forming an Intermodal Porting Issue Management Group (IMG) that produced a report and recommendation in May 2004 setting forth a streamlined confirmation and activation process; however, its effective implementation has been hindered by the requirement to submit an “error-free” port request; *and*

WHEREAS, The ATIS Ordering and Billing Forum (OBF) has been unable to develop a more efficient and uniform process for porting between wireline and wireless providers through their approval process since assignment of the issue in July of 2005; *and*

WHEREAS, The challenges regarding number portability for VoIP service providers have become increasingly common recently and have been raised before a number of bodies including State commissions, both for the porting in of a number to a VoIP provider and the porting out of a number from a VoIP provider; *and*

WHEREAS, The adoption of a simple and uniform industry porting process will facilitate consumer choice by improving customers' ability to switch carriers when desired, as well as creating a uniform understanding, by all parties, of the steps required to port numbers; *and*

WHEREAS, There is pending before the Federal Communications Commission ("FCC"), in Docket CC 95-116, a Petition for Declaratory Ruling regarding LNP seeking clarification 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 ("Portability Petition"); *now, therefore, be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners convened in its 2007 Winter Meetings in Washington, D.C. expresses its support for the adoption of a simple and uniform industry porting process; *and be it further*

RESOLVED, That NARUC staff shall file comments with the FCC in CC 95-116, consistent with this resolution, encouraging the FCC to establish a uniform industry porting process; *and be it further*

RESOLVED, That NARUC also conveys its concerns to the FCC in the Number Portability Docket regarding the challenges created by having different types of service providers porting numbers to each other, and the need for all service providers to comply with uniform industry porting guidelines and to work cooperatively with other carriers in resolving disputes.

*Sponsored by the Committees on Telecommunications and Consumer Affairs.
Adopted by the NARUC Board of Directors, February 21, 2007*