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October 23, 2007

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Telephone Number Portability, CC Docket No. 95-116; IP-Enabled Services, WC Docket No. 04-36

Dear Ms. Dortch:

On Monday, October 22, 2007, and today, Dee May, Karen Zacharia, Mark Montano, Gary Sacra and I met with separately with Scott Deutchman, Legal Advisor to Commissioner Copps, John Hunter, Senior Legal Advisor to Commissioner McDowell, and Adam Kirschenbaum, Ann Stevens, Marcus Maher, Nick Alexander, Christi Shewman, Melissa Kirkel, and Tim Stelzig of the Wireline Competition Bureau, to discuss the following topics relating to local number portability (“LNP”).

Local Number Portability and VoIP Providers

In an *ex parte* letter filed by Level 3 Communications (“Level 3”) on March 13, 2007,¹ Level 3 asked the Commission to expand on its statement in the *Time Warner Declaratory Ruling*² that, “[b]ecause our number portability rules apply to all local exchange carriers, customers effectively are able to port numbers to VoIP providers today by virtue of their relationship with a wholesale local exchange carrier.” *Time Warner Declaratory Ruling* ¶ 16 n.46. Verizon agrees with Level 3 that the Commission should confirm its conclusion in the *Time Warner Declaratory Ruling* that number porting obligations apply to interconnected VoIP providers through their local exchange carrier (“LEC”) partners. The Commission should also prohibit VoIP providers that do not port directly from conduct that obstructs or delays the port or a customer’s use of the ported number. In addition, as Verizon has explained elsewhere, Verizon does not object to VoIP providers obtaining numbers directly as long as they comply with the

¹ Letter from L. Strickling, Level 3, to M. Dortch, CC Docket No. 95-116 and WC Docket No. 04-36 (March 13, 2007) (“*Level 3 Letter*”).

² Memorandum Opinion and Order, *Time Warner Cable Request for Declaratory Ruling*, 22 FCC Rcd 3513 (2007) (“*Time Warner Declaratory Ruling*”).

numbering rules, including the porting rules. But Verizon disagrees with Level 3 that the Commission's anti-slamming rules should be expanded to apply to porting requests, because of fundamental technical differences between PSTN and VoIP technologies. Finally, the wholesale provider issues Level 3 discusses are better addressed in appropriate industry fora.

As an initial matter, the purpose of the number porting rules is to ensure that customers can change service providers and take their numbers with them when they do. These rules currently apply to wireline-to-wireline carrier changes as well as to wireline-to-wireless carrier changes. Although the Commission has already indicated that the number portability rules apply when a customer wishes to switch to and from a VoIP service provider, *Time Warner Declaratory Ruling* ¶ 16, Level 3 apparently thinks that the Commission's rules on this point are not clear. For this reason, the Commission should confirm that a wholesale carrier that receives a porting request for a telephone number that is used by a VoIP provider to serve an end user must port that number to the requesting carrier. *Id.* The local exchange carrier should not be permitted to reject the request on the grounds that the number is used by a VoIP provider or that the number was not initially "ported in" to the VoIP provider. Nor may a local exchange carrier delay a port either because the wholesale carrier has a dispute with its VoIP service provider customer or because the VoIP service provider has a dispute with the end user requesting the number port. The LNP rules set by industry working groups and adopted by the Commission provide mechanisms to handle invalid, incorrect, or improper port requests, and these rules should be followed by all providers.

Those VoIP providers that partner with a LEC to obtain numbers may still have a role to play in the effective porting of a customer's number. The Commission has previously concluded that "carriers may not impose non-porting related restrictions on the porting out process."³ The Commission should expressly extend that prohibition to VoIP providers and ensure that it covers conduct that may not literally affect the porting of the number, but would unreasonably obstruct or delay the customer's use of the ported number on his or her new provider. The need for this prohibition is illustrated by the following facts. Until recently, one large VoIP provider had in place a policy that prevented customers from porting their VoIP phone numbers to other carriers in a timely manner. Specifically, when a customer wanted to change to another service provider and to port the VoIP phone number, the VoIP provider's CLEC partner would – in compliance with number portability rules – transfer the phone number to the winning carrier. The VoIP provider would not, however, meet its obligation to unlock the phone number from the 911 database. The VoIP provider's refusal to unlock the number from the 911 database (until 90 days after the customer cancelled VoIP service) effectively obstructed the number port because the winning carrier could not provide service to its customer using the former VoIP provider's number unless the 911 database was updated to reflect the service provider change. The Commission should confirm that actions (or inactions) on the part of VoIP service providers or their partner CLECs that frustrate or defeat the purpose and intent of the number portability rules are improper.

In addition, as Verizon has previously explained, Verizon does not object to VoIP providers directly obtaining numbering resources – rather than through LEC partners – so long as

³ Memorandum Opinion and Order, *Telephone Number Portability – Carrier Requests for Clarification of Wireless-Wireless Porting Issues*, 18 FCC Rcd 20,971, ¶ 11 (2003).

the VoIP providers comply with all numbering rules, including those relating to local number portability.⁴ While some process changes would be required, no technical barriers exist that would prevent VoIP providers from porting numbers directly. As a result, Verizon is not opposed to allowing VoIP providers to have the option to continue to partner with a LEC or not.

Verizon disagrees, however, with Level 3 that “all porting requests are requests to change service providers under the slamming rules, and therefore the service provider requesting the port has the same duties as a submitting carrier under the slamming rules, and the carrier carrying out the port has the same duties as an executing carrier under the slamming rules.” *Level 3 Letter* at 2. In the wireline context, a carrier can change a customer’s service provider simply by submitting an unauthorized change request to the customer’s local exchange carrier. The customer will not experience any disruption in service as a result of the slam and will typically learn of the unauthorized carrier change only after he or she receives a bill from the unauthorized provider -- often a month or two after the slam has occurred. For this reason, it makes sense to impose obligations on submitting wireline carriers to secure end user authorization for the carrier change either through written letters of authorization or third-party verification.

These concerns do not apply equally in the context of service provider changes to and from VoIP service providers. Because of technology differences between PSTN service and VoIP, a VoIP service provider cannot easily “slam” a customer. In order to provide VoIP service, the service provider must either give the customer a telephone adapter that plugs into a DSL or cable modem or attach a device to the customer’s home that converts the voice signal into IP packets. In either case, the customer would need to be aware of and actively involved in the carrier change. Similarly, changes from one VoIP service provider to another or from VoIP service to wireline service cannot easily take place without active customer involvement. In this way, VoIP service is similar to wireless service (*e.g.*, Sprint Nextel could not “slam” a Verizon Wireless customer and begin providing service to that customer without the customer’s acknowledgement and participation in the wireless carrier change). Wireless providers are not subject to the submitting carrier slamming rules, and VoIP providers should not be either.

Finally, Level 3 requests that the Commission expand its number portability rules to those situations where a VoIP provider changes from one wholesale carrier to another wholesale carrier. *Level 3 Letter* at 2. The situation described by Level 3 does not involve an end user’s request to port his or her telephone number. Rather, it involves a commercial transaction between the VoIP provider and its wholesale carriers. A routine commercial transaction such as this is typically addressed by industry groups as a matter of industry practice, and there is no reason for the Commission to expand its number portability rules to cover such commercial transactions.

For example, in July 2003, the Local Number Portability Administration’s Working Group (“LNPA-WG”) revised the North American Number Council’s (“NANC”) Inter-Service Provider LNP Operations Flows to address the porting of telephone numbers of end users served

⁴ See Comments of Verizon, *Number Resource Optimization, Qwest Communications Corporation, on Behalf of its IP-Enabled Service Operations, Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission’s Rules Regarding Numbering Resources*, CC Docket No. 99-200 (June 6, 2005); Comments of Verizon, *Administration of the North American Numbering Plan*, CC Docket No. 99-200 (Apr. 11, 2005).

by a retail provider that uses an underlying wholesale network provider to provide numbering resources and service to its end users. Such retail providers would include resellers, pagers, and VoIP providers. These revised operations flows place the responsibility for issuing and responding to these porting requests on the underlying wholesale network provider. NANC endorsed these revised process flows in August 2003 and subsequently provided them to the Commission. *See* letter from Robert C. Atkinson, NANC Chair, to William Maher, then-Chief of the FCC's Wireline Competition Bureau, <http://www.nanc-chair.org/docs/documents6.html> (Aug. 21, 2003). The LNPA-WG could likewise develop process flows for situations where a retail provider changes from one wholesale network provider to another wholesale network provider. Level 3 has not identified any problems with current industry practices or any need to modify the Commission's porting rules to address the wholesale issues it discusses.

T-Mobile/Sprint Nextel Petition for Declaratory Ruling⁵

The Commission should let industry groups resolve what information should be included on the Local Service Request ("LSR"). The industry, working collaboratively, has developed number portability processes and systems that effectively handle a high volume of both intermodal and intramodal portability requests. Industry groups, including the Ordering and Billing Forum (OBF) and the Local Number Portability Administration Working Group, continually evaluate the processes in place and when necessary, initiate efforts to change processes to improve efficiency. This approach should continue to be utilized.

There is little evidence to support T-Mobile/Sprint's claims that the complexity of wireline LSRs obstructs or delays intermodal ports, which account for just 2.5% of Verizon's port outs. In 2007, Verizon ported out over one million numbers and completed well over 99% of these ports on time.⁶ Verizon's LSR for the former Bell Atlantic states (which we also refer to as "Verizon East") requires 26 fields, only five of which cannot be populated automatically. The five fields that cannot be populated automatically are name, state (postal abbreviation), account number, ported telephone number, and type of account (residential or business). This is but one field greater than the LSR used in the wireless industry, which requires telephone number, account number, zip code, and password. One additional data field would be highly unlikely to delay any ports, particularly when nearly 90% of all number portability requests submitted in the Verizon East states requested a due date longer than the standard three business day interval. Indeed, both T-Mobile and Sprint routinely submit port requests with due dates longer than the standard interval.⁷ This provides further support to Verizon's prior explanations why the Commission need not decrease the standard three business day porting interval.⁸ As a result,

⁵ T-Mobile USA, Inc. and Sprint Nextel Corp., Petition for Declaratory Ruling, *Telephone Number Portability*, CC Docket No. 95-116 (Dec. 20, 2006).

⁶ *See also* Verizon's Opposition to T-Mobile USA, Inc. and Sprint Nextel's Petition for Declaratory Ruling Regarding Number Portability, *Telephone Number Portability*, CC Docket No. 95-116 (Feb. 8, 2007) at 4.

⁷ *See id.* at 10-11.

⁸ *See* Verizon's Reply Comments to T-Mobile USA, Inc. and Sprint Nextel's Petition for Declaratory Ruling Regarding Number Portability, *Telephone Number Portability*, CC Docket No. 95-116 (Feb. 23, 2007) at 6-7 (explaining the costs and the lack of a countervailing customer benefit); Verizon's Replies on Second Further Notice of Proposed Rulemaking Concerning the Intermodal Porting Interval, *Telephone Number Portability*, CC Docket No. 95-116 (Dec. 17,

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new rules that modify the existing LSR fields or that require a shortened standard interval would be unlikely to materially enhance the number porting process.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Anne D. Burk". The signature is written in a cursive style. To the right of the signature is a vertical red line.

cc: Scott Deutchman
John Hunter
Nick Alexander
Melissa Kinkel
Adam Kirschenbaum
Marcus Maher
Christi Shewman
Tim Stelzig
Ann Stevens