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

In the Matter of	)	
	)	
Telephone Number Requirements for IP-Enabled Service Providers	)	WC Docket No. 07-243
	)	
Local Number Portability Porting Interval and Validation Requirements	)	WC Docket No. 07-244
	)	
IP-Enabled Services	)	WC Docket No. 04-36
	)	
Telephone Number Portability	)	CC Docket 95-116
	)	
CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues	)	
	)	
Final Regulatory Flexibility Analysis	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200

OPPOSITION TO PETITION FOR CLARIFICATION / RECONSIDERATION OF ONE COMMUNICATIONS CORP.

Charter Communications, Inc., and its subsidiary Charter Fiberlink, LLC, (collectively "Charter"), by their attorneys, pursuant to Sections 1.3 and 1.429(f) of the Commission's rules,[1] hereby oppose the Petition for Clarification ("Petition") submitted by One Communications Corp. ("One Communications"), which purports to seek a clarification of the Commission's recent *Declaratory Ruling* in the above-captioned dockets.[2] Specifically, the Petition asks the Commission to modify its decision that no more than four fields of information are necessary to

[1] *See* 47 C.F.R. §§ 1.3, 1.429(f).
[2] *Telephone Number Portability Requirements for IP-Enabled Service Providers, WC Docket No. 07-243, et al.*, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed

validate and accomplish a simple port. Because the Commission has already clearly ruled on that question, and because the Petition offers no new material facts or law, the request should be denied.

I. The Commission Should Treat One Communications' Request for "Clarification" As a Request for Reconsideration

One Communications' petition, although styled as a "Petition for Clarification," is in effect a petition for reconsideration of the Commission's recent *Report and Order and Declaratory Ruling* in WC Docket 07-244.[3] In the *Declaratory Ruling* the Commission adopted the "four fields" rule governing number porting requests.[4] That rule limits the number of separate data fields that the old service provider could demand of the new service provider to the following: (1) 10-digit telephone number; (2) customer account number; (3) 5-digit zip code; and (4) pass code (where applicable).[5] One Communications asks this Commission to "clarify" this ruling by finding that porting-out providers may require additional information, beyond the four fields, when completing (as opposed to validating) a simple port. But a Commission decision granting this request would, in effect, modify and reverse the purpose and intent of the four fields rule.

Petitioner contends that a "clarification" is required to correct an "ambiguity." To the contrary, the *Declaratory Ruling* is clear. The Commission ruled squarely that a "porting-out provider may not require more information than is a minimal but reasonable amount

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Rulemaking, FCC 07-188 (rel. Nov. 8, 2007) ("*Declaratory Ruling*").
[3] *See id.*
[4] *See id.* at ¶¶ 42-49.
[5] *See id.*

from the porting-in provider to validate the port request ***and accomplish the port***."[6] In other words, porting-out providers are required to both validate, "and accomplish," the port based upon the four fields identified in the *Declaratory Ruling*. Should the Commission modify this decision, in the form of a clarification order, that would constitute a material revision to, and reconsideration of, its previous decision.

Reconsideration requests are not lightly granted. As the Commission's rules make clear, a petition for reconsideration must rely upon "facts which have not previously been presented to the Commission," and even in such circumstances will be granted only where:

> (1) The facts relied on relate to events which have occurred or circumstances which have changed since the last opportunity to present them to the Commission;
>
> (2) The facts relied on were unknown to petitioner until after his last opportunity to present them to the Commission, and he could not through the exercise of ordinary diligence have learned of the facts in question prior to such opportunity; or
>
> (3) The Commission determines that consideration of the facts relied on is required in the public interest.

47 C.F.R. § 1.429(b).

Thus, any action on this Petition (other than denial) could only come if the Petitioner satisfied this demanding standard for reconsideration. For the reasons set forth below, the Petition does not satisfy that standard.

II. Petitioner's Arguments In Support of Reconsideration Are Without Merit

In the *Declaratory Ruling* the Commission addressed the important question revolving around the amount of information necessary for porting-out providers to both validate and

[6] *Id.* at ¶ 42. (emphasis added).

accomplish a port request. In so doing the Commission recognized the important competitive concerns arising from this question, and the need to continue to ensure effective and efficient number porting is available to foster competition in the voice communications market.

Specifically, the Commission addressed concerns regarding "obstruction and delay in the porting process."[7] The Commission affirmed that entities subject to LNP obligations may ***not*** demand information beyond that required to "validate the port request and accomplish the port."[8] For this reason, and others, the Commission concluded that it was appropriate to adopt specific criteria governing the information required for port validation and completion of simple ports. To that end the Commission concluded that with respect to "simple ports" no more than four fields of information are necessary to validate and accomplish simple ports. Those four fields are: (1) 10-digit telephone number; (2) customer account number; (3) 5-digit zip code; and (4) pass code (where applicable).[9]

Despite the Commission's clear and unequivocal statements on this issue, One Communications claims that further Commission action is necessary because the *Declaratory Ruling* fails to establish that four fields are required both to validate ***and*** accomplish a port. Petition at 3. One Communications argues that porting out carriers may often require additional information to "accomplish" a port, and seeks "clarification" that they may be entitled to request such information when they deem it appropriate. *Id.* at 4-5.

One Communications focuses on what it contends are ambiguous statements in paragraphs 43 and 48, noting that although the Commission acknowledged in paragraph 43 that

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[7] *Declaratory Ruling* at ¶ 42.
[8] *Id.*
[9] *See generally,* ¶¶ 42-49.

there are two phases to porting a number (i.e. validation and accomplishment), there is no parallel statement in paragraph 48 stating that the new rule applies to both phases of the process. *Id.* at 3.[10]

These assertions are not compelling because they rely upon a narrow reading of these two paragraphs, and without due consideration of the entire section of the *Declaratory Ruling* that addresses the four fields rule. In fact, that portion of the *Declaratory Ruling* addressing this issue (Section III.B.1), when read as a whole, clearly does apply the four fields rule to both validation ***and*** accomplishment of a port request.

This is apparent from a simple review of paragraphs 42 through 49, where the Commission clearly establishes that the issue it is addressing is both the validation and accomplishment of the port. For example, in paragraph 42 the Commission grants the Petitioners request to clarify that porting-out providers may not require more information beyond that which is necessary to "validate the port request and ***accomplish*** the port." *Declaratory Ruling* at ¶ 42. (emphasis added). The Commission reaffirms this decision in paragraphs 43 ("validate the port request and ***accomplish*** the port."); and paragraph 45 (noting that some information sought by opponents of the four fields rule is "unrelated to validation and ***completion of*** the port"); and, again in paragraph 46 (finding that it is appropriate to adopt specific criteria governing information required to "validate and ***complete*** the port.").[11] Thus, it is evident that the Commission intended to apply the four fields rule to ***both*** the validation, ***and*** the

[10] The Petition also appears to ask the Commission to endorse the recent document filed by ATIS concerning a recent draft of the Ordering and Billing Forum "guide" to responding to simple port requests. *Id.* at 4-5. To the extent that the Petition is read to endorse the ATIS OBF "guide," Charter opposes the same for the reasons stated herein.

[11] Emphasis added in parentheticals accompanying ¶¶ 43, 45, and 46.

accomplishment of, a simple port.

These paragraphs also demonstrate that the Commission has already considered, and addressed, the very question raised by One Communications in its Petition. The Commission explained that the record revealed that difficulties in the porting process can arise "due to the volume of information requested by providers."[12] Indeed, the Commission arrived at its conclusion to establish the four fields rule precisely because the record revealed problems associated with requests for extraneous information. It was therefore "[i]n response to these concerns" that the Commission ruled that "carriers may not require the submission of information for purposes of the LNP process other than a reasonable amount to validate ***and complete*** the port."[13] Thus, there is clearly no ambiguity with respect to the scope and intent of the Commission's decision. To the extent that the Petitioner believes that the Commission should adopt further policy changes with respect to these processes, those arguments should be addressed in the Commission's continuing rulemaking proceeding in these dockets.

Furthermore, should the Commission grant the Petition and rule that porting-out providers may require information in addition to the four fields to accomplish a simple port, that result would hinder, rather than enhance, efficient porting processes. Grant of the relief requested in this Petition would mean that porting-out providers could effectively create a *de facto* process that requires the porting-in provider to submit to a two-step request process. Under such a scenario porting-in providers would have to submit a first port request simply for validation (after providing only the four fields of information); and then porting-in providers would have to submit a second request, after providing the additional information which One

[12] *Id.* at ¶ 45.

Communications suggests is necessary to complete a port, to complete the port. That result could not have been what the Commission envisioned when it adopted the four fields rule. Nor it is consistent with the Commission's intent, as expressed in the first paragraph of the *Declaratory Ruling*, to "ensure regulatory parity among providers of similar services" and "minimize marketplace distortions" associated with number porting.[14]

Finally, the Commission's four fields rule reflects a sound policy decision. The rule ensures that porting-out providers can not improperly undermine or impair the porting process by demanding additional information. At the same time, the rule does not prohibit porting-in providers from providing additional information to facilitate a port request, if they so choose.[15] Indeed, if both parties agree that additional information will facilitate the process, or otherwise ensure efficient porting, then there is nothing in the four fields rule that prohibits the porting-in providers from agreeing to exchange such information if they so choose.

CONCLUSION

For the foregoing reasons, Charter respectfully requests that the Commission deny One Communications' Petition to Clarify / Reconsider the Commission's decision to require only four fields of information for both the validation and accomplishment of a simple port request. The Petition must be denied because the issue has already been addressed, and resolved by the Commission, and because none of One Communications' arguments raise any substantial or material new question of fact or law.

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[13] *Id.* at ¶ 46.
[14] *Id.* at ¶ 1.
[15] For example, porting-in providers may decide to provide additional information, like a desired due date/time, if that date is different than the currently required fourth day after the port request is made. If such information is not provided, it would be reasonable to assume that the porting-in provider expects the port to be completed on the fourth day.

Respectfully submitted,

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Dated: February 15, 2008

CERTIFICATE OF SERVICE

I, Gina Lee, a Paralegal in the law office of Davis Wright Tremaine LLP, hereby certify that I have this 15h day of February, 2008, caused a copy of the foregoing "**OPPOSITION TO PETITION FOR CLARIFICATION / RECONSIDERATION**" to be delivered by first class mail, postage pre-paid to the following:

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