

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Local Number Portability Porting Interval and Validation Requirements)	WC Docket No. 07-244
)	

COMMENTS OF AT&T INC.

Pursuant to the Commission’s *November 8 NPRM* in the above captioned proceeding,¹ AT&T Inc. (“AT&T”) submits these comments on the Commission’s proposal to adopt rules specifying the length of porting intervals and other details of the local number porting (“LNP”) process – in particular, the Commission’s tentative conclusion that it should prescribe a maximum 48-hour porting interval for intramodal wireline-to-wireline and intermodal wireline-to-wireless simple ports²

Currently, the intervals for these two categories of ports are four days.³ This period is comprised of a “Confirmation Interval” of 24 *clock* hours, and an “Activation Interval” of 3 *business* (*i.e.*, not merely calendar) days. The *November 8 NPRM* observes that the CMRS industry has adopted more streamlined intervals for intramodal wireless porting, and that in

¹ See *Telephone Number Requirements for IP-Enabled Services Providers; Local Number Portability Porting Interval and Validation Requirements; IP-Enabled Services; Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, Final Regulatory Flexibility Analysis; Numbering Resource Optimization*, WC Docket Nos. 07-243, 07-244, and 04-36 and CC Docket Nos. 95-116 and No. 99-200, Report and Order, Declaratory Ruling, Order on Remand and Notice of Proposed Rulemaking, 22 FCC Rcd 19,531 (2007) (“*November 8 Order*” and “*November 8 NPRM*”), published at 73 FR 9507, 73 FR 9463 (Feb. 21, 2007). The Commission directed that all comments in response to the *November 8 NPRM* regarding porting intervals be filed in WC Docket No. 07-244, which it has opened for that purpose. *Id.*, 22 FCC Rcd at 19,563 (¶ 67).

² *Id.*, 22 FCC Rcd at 19,561-563 (¶¶ 59-65).

³ *Id.*, 22 FCC Rcd at 19,562 (¶ 61).

recent years various parties have put forward proposals for a variety of shorter intramodal wireline and intermodal porting intervals than those now required under the Commission's rules.⁴ The *November 8 NPRM* tentatively concludes that the Commission should adopt a 48 hour interval and "allow the industry to work through the implications of such a timeline." The basis for the tentative selection of this interval is that "it falls between the range of proposed shorter intervals" than current requirements.⁵

AT&T believes that reducing current porting intervals, consistent with consideration of the feasibility and burdens of adopting such a measure, can produce benefits for consumers and further strengthen competition among service providers. The Commission's tentative proposal of a 48 hour porting interval may well be a reasonable basis for achieving these important objectives. However, evaluating the value of that modification in the LNP process requires an assessment of numerous complex technical and operational issues, as well as a determination of their potential impact on any countervailing regulatory and public policy obligations. As currently framed, the Commission's proposed reduction in the porting interval stated in the *November 8 NPRM* is seriously lacking in the necessary detail to allow such an evaluation by AT&T and other interested parties.⁶ The Commission has also requested comment whether to

⁴ *Id.*, 22 FCC Rcd at 19,562 (¶ 62) (noting proposals for 36 hour and 53 hour maximum intervals).

⁵ *Id.*, (¶ 63)

⁶ For example, despite the fact that they are recognized as separate parts of the LNP process the *November 8 NPRM* fails even to state whether the proposed 48 hour interval covers both confirmation of a porting order and activation of the ported number, or only the latter activity. (For purposes of these comments, AT&T will assume that the Commission's proposal refers only to the Activation Interval.) Nor does the Commission's proposal address whether the 48 hour period (a) includes only business hours of the porting-out carrier; and (b) whether the Activation Interval begins on the next business day if the simple port is received after the porting-out carrier's business hours. (Again, in these comments AT&T makes both of these assumptions.) This is important because a disproportionately large number of porting requests originate on weekends and holidays, when end users visit shopping malls and other retail sales locations. Also unstated in the *November 8 NPRM* is whether the porting order is to be submitted electronically, rather than through other means such as

adopt a rule codifying the wireless industry's current voluntary standard for intramodal porting.⁷ Nothing in the *November 8 NPRM* shows any need for such action, and AT&T believes it is unnecessary for the Commission to adopt such a prescriptive measure. In all events, moreover, just as with the Commission's proposal for a 48 hour porting interval for other categories of ports, the record on implementing a regulation for intramodal wireless porting is bereft of the detailed information that AT&T and other interested parties would require to provide input on such a rule.

As the *November 8 NPRM* itself acknowledges,⁸ in administering its plenary authority over telephone numbering issues conferred by Section 251(e) of the Communications Act (47 U.S.C. § 251(e)) the Commission as a general matter has limited its role to deciding the broad public policies governing LNP obligations. It has left specific details of implementation to be elucidated through recommendations from advisory bodies such as the North American Numbering Council (“NANC”), which the Commission created for the express purpose of obtaining “industry technical and operational expertise . . . based on day-to-day experiences that this Commission simply lacks.”⁹ Indeed, the currently applicable four day porting intervals for

fax or ordinary email; AT&T assumes that only electronically-submitted LNP orders will be subject to a reduced Activation Interval. Attachment A to these comments provides a list of the principal assumptions upon which AT&T predicates its support of further evaluation of the Commission's proposal.

⁷ *Id.*, 22 FCC Rcd at 19561 (¶ 59).

⁸ *Id.*, 22 FCC Rcd at 19,533-534 (¶¶ 6-7), citing *Telephone Number Portability*, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 (1996) (“*First Number Portability Order*”); *Telephone Number Portability*, CC Docket No. 95-116, First Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 7236 (1997) (“*First Number Portability Reconsideration Order*”); *Telephone Number Portability*, CC Docket No. 95-116, RM-8535, Second Report and Order, 12 FCC Rcd 12281 (1997) (“*Second Number Portability Order*”).

⁹ See *Administration of the North American Numbering Plan*, 11 FCC Rcd 2588, 2608 (1995) (“*NANP Order*”) (¶ 45). The Commission in that decision established the NANC under the Federal Advisory Committee Act, 5 U.S.C., App., finding “it is essential that we create the NANC . . . to provide to the

wireline-to-wireline and wireline-to-wireless simple ports reflect the Commission's previous adoption of NANC recommendations for those transactions.¹⁰

As changes in industry structure and technology have evolved, the Commission has relied on ongoing study by NANC of the impact of those developments on LNP procedures,¹¹ including analysis of potential modification of porting intervals in light of those changes.¹² Based on these NANC studies, the Commission has then utilized the notice-and-comment process to develop a concrete record for decision through its rulemaking proceedings.¹³

Adherence to this methodical process for establishing detailed LNP technical and operational procedures has served the public interest well in implementing fair and efficient porting without imposing undue disruptions and unnecessary burdens on either end users or service providers. But where the Commission has deviated from that course by prescribing

Commission advice and recommendations reached through consensus to foster efficient and impartial number administration." *Id* at 2609 (¶¶ 45-46).

Only recently, when the NANC's charter was extended for a further two year period, the Commission itself stated that "[t]he value of this federal advisory committee to the telecommunications industry and to the American public cannot be overstated." *See* Public Notice, "FCC Announces GSA's Approval of the Renewal of the North American Numbering Council Charter through September 27, 2009, DA 07-4080, rel. Oct. 2, 2007.

¹⁰ *See November 8 NPRM*, 22 FCC Rcd at 19,562 (¶ 61); *Second Number Portability Order*, *supra*; 47 C.F.R. § 52.26(a) (incorporating by reference April 25, 1997 report of NANC Local Number Portability Administration Selection Working Group).

¹¹ *See, e.g., Second Number Portability Order*, 12 FCC Rcd at 12333 (¶ 90) (directing NANC to develop standards and procedures necessary to provide for wireless carriers' participation in local number portability).

¹² In response to the Commission's directive in the *Second Number Portability Order*, NANC prepared two reports focusing on porting interval issues. *See* NANC Local Number Portability Administration Working Group Second Report on Wireless Wireline Integration, CC Docket No. 95-116 (filed Nov. 4, 1999) ("*Second Report on Wireless Wireline Integration*"); NANC Local Number Portability Administration Working Group Third Report on Wireless Wireline Integration, CC Docket No. 95-116 (filed Nov. 29, 2000) ("*Third Report on Wireless Wireline Integration*").

¹³ *See Telephone Number Portability*, 18 FCC Rcd 23,697, 23,702 (2003) ("*Intermodal Number Portability Further Notice*") (¶ 12) (requesting comment on the NANC 1999 and 2000 reports).

specific LNP requirements without adequate prior consultation with NANC and affected industry segments, however it has inadvertently introduced substantial confusion and unnecessary costs into the LNP implementation process.

A stark example of these unintended consequences is the *November 8 Order's* declaratory ruling limiting carriers to four specific data fields for purposes of validating LNP orders, and directing that this restriction be implemented within 90 days of the decision's release. The Commission adopted these requirements with the intent of facilitating timelier implementation of end users' LNP requests. However, as subsequent evidence showed, the four field restriction created a risk of inadvertent disconnection through erroneous identification of the porting end user, and in all events the 90 day compliance deadline was insufficient to be able to be satisfied by many industry participants.¹⁴ Although the Commission subsequently ameliorated at least some of the problems inherent in its declaratory ruling by extending the compliance deadline until at least July 31, 2008,¹⁵ this episode underscores the imperative

¹⁴ See Comments of United States Telecom Association, filed January 30, 2008, in *Local Number Portability Porting Interval and Validation Requirements; Telephone Number Portability; Embarq Petition for Limited Waiver*, WC Docket No. 07-244, CC Docket No. 95-116.

¹⁵ See *Local Number Portability Porting Interval and Validation Requirements; Telephone Number Portability; Embarq Petition for Limited Waiver*, WC Docket No. 07-244, CC Docket No. 95-116, Order, FCC 08-31, rel. Feb. 5, 2008 ("*February 5 Waiver Order*"). However, that decision by no means fully eliminated the "significant risk that the incorrect customer's number may be ported, resulting in inadvertent disconnection of that subscriber." *Id.*, ¶ 7

For example, for wireline customers two of the four permissible validation fields – the ten digit telephone number and the subscriber's account number – are identical. Moreover, because wireline telephone numbers are geographically assigned, the subscriber's five digit zip code (the third of the permissible data fields) will generally be insufficient to allow the porting-out carrier to identify whether there has been a transposition in the last four digits of a number in NPA-NXX-XXXX format. Thus, for porting-out carriers (or their subscribers) that do not use passcodes, the limited validation information permitted by the *November 8 Order* offers inadequate assurance that the correct customer will be ported to a requesting carrier. The Commission should therefore direct NANC to evaluate and recommend additional safeguards for validating LNP requests, as well as the appropriate standard for determining a porting-out carrier's liability, if any, for inadvertent customer disconnection.

necessity for the Commission to take into account the need for orderly, well planned changes when evaluating potential modifications to porting intervals or any other aspect of the LNP process.

Fortunately, in the present rulemaking, the Commission is already well positioned to obtain the necessary expert guidance from NANC upon which to formulate any reduction in the current porting intervals. In response to the *Intermodal Number Portability Further Notice*, NANC formed an Issues Management Group (“IMG”), and on May 3, 2004 submitted its recommendation for reducing the intermodal porting interval, based on an estimated 2,000 hours of work by that body.¹⁶ The 48 hour interval proposed in the *November 8 NPRM* is substantially similar to the two day “Activation Interval,” following confirmation of the customer’s porting order, that the *NANC 2004 Report* suggested be further analyzed by industry and regulatory bodies. While the IMG’s study also evaluated, but ultimately suggested against adopting, a one hour confirmation interval for porting requests, AT&T believes that the subsequent streamlining of the validation process prescribed in the *November 8 Order* could establish a sound case for reducing the current simple porting interval to a total of 49 hours, *i.e.*, a one hour confirmation interval followed by a 48 hour activation interval.

Before finally adopting any rules embodying these intervals, however, AT&T strongly urges the Commission to direct NANC to refresh its 2004 analysis to take account of intervening changes in business practices and evolving technological developments. AT&T further recommends that the Commission prescribe a date certain, in the range of 60 to 90 days, within

¹⁶ See Letter dated May 3, 2004 in CC Docket No. 95-116 from Robert C. Atkinson, Chairman, NANC, to William Maher, Chief, Wireline Competition Bureau, FCC, (“Porting Interval Letter”); NANC Report and Recommendation on Intermodal Porting Intervals, prepared for the NANC by the Intermodal Porting Interval Issue Management Group (filed May 3, 2004) (“*NANC 2004 Report*”), accessible at http://www.nanc-chair.org/docs/nowg/May04_Intermodal_Porting_Report.doc. The Commission thereafter requested comment on the *NANC 2004 Report*. See *Telephone Number Portability*, 19 FCC Rcd 18,515 (2004) (“*Intermodal Number Portability Second Further Notice*”).

which NANC should submit its updated recommendations to the Commission on reductions in the confirmation and porting intervals.

As recent experience with the *November 8 Order*'s directive on validation also teaches, it is imperative that the Commission allow sufficient time for industry participants to implement any revised porting interval adopted in this rulemaking. Here again, input from NANC is critical to assure that the changes in the LNP porting interval can be properly coordinated and communicated among porting carriers.¹⁷ Accordingly, pending receipt of specific recommendations on changes to the porting interval, the Commission should withhold adoption of any specific implementation deadline, but it should require NANC as part of its recommendations to propose an appropriate interval between the Commission's adoption of new porting intervals and the date for compliance with those requirements.

Respectfully submitted,

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¹⁷ See *February 5 Waiver Order*, ¶¶ 4, 7 (acknowledging the same need when implementing changes in permissible validation data).

ATTACHMENT A

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AT&T Assumptions Regarding Proposed Reduction in Porting Interval

1. A Simple port is defined by footnote 153 of the Order:
 - (1) does not involve unbundled network elements;
 - (2) involves an account only for a single line;
 - (3) does not include complex switch translations (e.g., Centrex, ISDN, AIN, RCF, or multiple services on the loop); and
 - (4) does not include a reseller
2. A Simple port must be electronically submitted (e.g., electronic bonding, web GUI), not fax, not free-form email).
3. The overall interval is composed of two component intervals
 - a. Confirmation Interval – The period of time from the sufficient receipt of an LSR by the old service provider until its successful validation and transmission of a related FOC to the new service provider. This interval has currently been measured in *clock* hours up to a maximum of 24 hours.
 - b. Activation Interval - The period of time from the FOC to the due date. This interval has currently been measured in **business** days, up to a maximum of 3 days.
4. Any Confirmation or Activation interval and due date/time must contemplate the published Business Hours and Business Days, including Holidays, of the old service provider
5. The FCC proposes 48 hour interval corresponds to the Activation Interval only. The Confirmation Interval will precede this 48 hour interval
6. The FCC proposed 48 hour interval does not – but must – distinguish between clock hours and Business Hours from the transmission of a related FOC.
7. A Simple port must request a due date compliant with prevailing Activation Interval standards or rules.
8. A Simple port may and often does include the request for activation of the Unconditional Ten Digit Trigger.

9. The submission of an LSR for a Simple port anticipates the new service provider selecting the Simple port ordering path if the old service provider offers both a Simple port and a Complex port ordering path.
10. The Simple port Activation Interval effectively begins at the beginning of Business Hours of the next Business Day if received after Business Hours end on the day of receipt.
11. NANC will publish updated Process Flows and supporting text and be adopted by the FCC to assure compliance requirements.
12. The five day Activation Interval for the first port from an NPA-NXX will remain in force and an exception to the standard Activation Interval.