

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

In the Matter of	)	
	)	
Telephone Number Requirements for IP-Enabled Services 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 No. 95-116
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200

**PETITION FOR CLARIFICATION AND/OR RECONSIDERATION**

The National Telecommunications Cooperative Association (NTCA) and the South Dakota Telecommunications Association (SDTA) (hereinafter jointly referred to as Petitioners), by their attorneys, hereby request clarification and/or reconsideration of the Commission’s Order concerning local number portability (LNP) and interconnected Voice over Internet Protocol (VoIP) providers.<sup>1</sup> Specifically, Petitioners request clarification and/or reconsideration with respect to the Commission’s statements concerning a VoIP provider’s “numbering partner” and the scope of porting obligations.

In the Order, the Commission states that porting obligations vary depending on whether a service is provided by a wireline carrier or a covered CMRS provider. The

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<sup>1</sup> *In the Matter of 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*, 22 FCC Rcd 19531 (released November 8, 2007) (the “Order”).

Commission then states that because interconnected VoIP providers obtain NANP telephone numbers through commercial arrangements with traditional telecommunications carriers, “the porting obligations to or from an interconnected VoIP service stem from the status of the interconnected VoIP provider’s numbering partner and the status of the provider to or from which the NANP telephone number is ported.”<sup>2</sup> The Commission defines “numbering partner” as the “carrier from which an interconnected VoIP provider obtains numbering resources.”<sup>3</sup> Thus, the Commission states:

subject to a valid port request on behalf of the user, an interconnected VoIP provider that partners with a wireline carrier for numbering resources must, in conjunction with its numbering partner, port-out a NANP telephone number to: (1) a wireless carrier whose coverage area overlaps with the geographic location of the porting-out numbering partner’s rate center; (2) a wireline carrier with facilities or numbering resources in the same rate center; or (3) another interconnected VoIP provider whose numbering partner meets the requirements of (1) or (2). Similarly, subject to a valid port request on behalf of the user, an interconnected VoIP provider that partners with a covered CMRS provider for numbering resources must, in conjunction with its numbering partner, port-out a NANP telephone number to: (1) another wireless carrier; (2) a wireline carrier within the telephone number’s originating rate center; or (3) another interconnected VoIP provider whose numbering partner meets the requirements of (1) or (2).<sup>4</sup>

Further, the Commission states:

subject to a valid port request on behalf of the user, a wireline carrier must port-out a NANP telephone number to : (1) an interconnected VoIP provider that partners with a wireless carrier for numbering resources, where the partnering wireless carrier’s coverage area overlaps with the geographic location of the porting-out wireline carrier’s rate center; or (2) an interconnected VoIP provider that partners with a wireline carrier for numbering resources, where the partnering wireline carrier has facilities or numbering resources in the same rate center as the porting-out wireline carrier. Similarly, subject to a valid port request of the user,

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<sup>2</sup> Order at para. 35.

<sup>3</sup> Order at n. 48.

<sup>4</sup> Order at para. 34.

a wireless carrier must port-out a NANP telephone number to: (1) an interconnected VoIP provider that partners with a wireless carrier; or (2) an interconnected VoIP provider that partners with a wireline carrier for numbering resources, where the partnering wireline carrier is within the number's originating rate center.<sup>5</sup>

It is not clear from the Commission's Order if numbers can be provided by a carrier to a VoIP provider separate and apart from any telecommunications service. It also is not clear from the Commission's Order if a VoIP provider can obtain numbers from a wireless carrier and thereby obtain a different porting scope than that which would be available to a wireline carrier or a VoIP provider that obtained numbers from a wireline carrier. Petitioners request clarification and, in the alternative, reconsideration on these issues.

Petitioners believe that the characterization of a telecommunications carrier as a "numbering partner" and the description of VoIP providers "partnering" with telecommunications carriers for numbering resources is inaccurate, misleading, and appears to conflict with the Commission's rules and prior orders. "Numbering partner," as defined by the Commission, could be interpreted as disassociating the provision of telephone numbers from the provision of telecommunications service. This appears to conflict with Section 52.15(g)(2)(i) of the Commission's rules, which requires a carrier to submit evidence that it is authorized to provide service in the area for which the numbering resources are being requested. In addition, in the SBCIS Waiver Order, the Commission stated that without a waiver, "in order to obtain NANP telephone numbers for assignment to its customers, SBCIS would have to purchase a retail product

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<sup>5</sup> Order at para. 35.

(such as a Primary Rate Interface Integrated Services Digital Network (PRI ISDN) line) from a LEC, and then use this product to interconnect with the PSTN in order to send and receive certain types of traffic between its network and the carrier networks.”<sup>6</sup>

The disassociation of telephone numbers from the provision of a telecommunications service also could lead to the sale of telephone numbers. Such a result would be contrary to the Commission’s numbering conservation rules.

In any event, “partner” is a legal term that confers certain obligations and liabilities on the entities involved. There is no evidence that a telecommunications carrier that provides telecommunications service or telephone numbers to a VoIP provider is the “partner” of the VoIP provider. This is not an unimportant dispute over language. The mere fact that a telecommunications carrier provides a wholesale or retail service to its customer which the customer then uses to provide service to its end user customer does not make the carrier a “partner” in the provision of service to the end user customer.

Petitioners ask the Commission to clarify this aspect of its Order by removing the confusing “partnering” language and making it clear that an interconnected VoIP provider obtains telephone numbers from a wireline or wireless carrier in association with the telecommunications services purchased from that wireline or wireless carrier, respectively. In the alternative, Petitioners ask the Commission to reconsider this aspect of its Order for the reasons discussed herein.

The Commission also should clarify its language concerning the porting scope provided to VoIP providers. Specifically, Petitioners ask the Commission to clarify that a

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<sup>6</sup> *In the Matter of Administration of the North American Numbering Plan*, 20 FCC Rcd 2957, para. 5 (released February 1, 2005)

VoIP provider cannot obtain numbers from a wireless carrier and thereby obtain a different porting scope than that which would be available to a wireline carrier or a VoIP provider that obtained numbers from a wireline carrier.

In the alternative, the Petitioners ask the Commission to reconsider this aspect of its decision. An agency is required to articulate a satisfactory explanation for its action including a “rational connection between the facts found and the choice made.”<sup>7</sup> The Commission provides no explanation as to why a VoIP provider’s porting scope should be different than the porting scope of the LEC operating in the same area. Accordingly, the Commission’s decision is arbitrary and capricious.

Moreover, conferring a different porting scope on a VoIP provider on the basis of how it obtains telephone numbers would provide an unjustified competitive advantage to the VoIP provider. It also could exacerbate the transport issue and increase the associated burden on LECs if VoIP providers are entitled to the same porting scope as a wireless carrier. In this regard, it appears that the Regulatory Flexibility Analysis is deficient as the Commission does not address the burden of this new rule on rural LECs.

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<sup>7</sup> *Motor Vehicle Manufacturers Association of the United States, Inc., et al. v. State Farm Mutual Automobile Insurance Co. et. al.*, 463 US 29, 43 (1983) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 US 156, 168 (1962)).

Based on the foregoing, Petitioners ask the Commission to clarify and/or reconsider its Order as discussed herein.

Respectfully submitted,

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March 24, 2008

## CERTIFICATE OF SERVICE

I, Adrienne L. Rolls, certify that a copy of the foregoing Petition for Clarification and/or Reconsideration of the National Telecommunications Cooperative Association and the South Dakota Telecommunications Association in WC 07-243, WC 07-244, WC 04-36, CC 95-116, and CC 99-200, FCC 07-188, was served on this 24th day of March 2008 via electronic mail to the following persons:

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