

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

COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES
COMMISSION
AND THE PEOPLE OF THE STATE OF CALIFORNIA
ON PETITION FOR DECLARATORY RULING, ORDER ON
REMAND,
AND NOTICE OF PROPOSED RULEMAKING

The California Public Utilities Commission and the People of the State of California (CPUC or California) respond here to the *Notice of Proposed Rulemaking (NPRM)* adopted by the Federal Communications Commission (FCC or Commission) on October 31, 2007. In the *NPRM*, the FCC expressed its interest in ensuring “that customers of interconnected VoIP services receive the benefits of LNP” and in minimizing “marketplace distortions

arising from regulatory advantage”.¹ With these goals in mind, the FCC requested comments on whether it should adopt additional numbering requirements “to benefit customers of telecommunications and interconnected VoIP services”. Specifically, the FCC asks whether it should 1) extend to interconnected VoIP providers “other numbering-related obligations”, and 2) “adopt specific rules regarding the LNP validation process and porting interval lengths”.²

With regard to the current state of the number porting process, the FCC is also seeking comments as to whether or not the FCC should mandate or modify certain elements of the porting process, specifically ways that validation fields could minimize error rates in the porting process. The FCC specified that comments should include benefits and burdens of specific requirements on the porting process.

The CPUC offers these brief comments in response to the *NPRM*. Silence on any issues here does not connote agreement or disagreement with the FCC’s statement of the issue or any proposed resolution.

I. BACKGROUND

In its *Report and Order, Declaratory Ruling, Order on Remand* (FCC 07-188), adopted October 31, 2007, the FCC extended number portability

¹ *NPRM*, ¶ 53.

² *Id.* at ¶ 52.

requirements to interconnected VoIP providers and has ordered interconnected VoIP providers to share in the expense of maintaining the numbering system. The Commission also adopted rules requiring that all carriers, wireline and wireless, implement the appropriate technology and protocols to allow customers to port between and among carriers, facilitated by the provision of no more than four data fields. Finally, the FCC ordered wireline carriers who qualify as small businesses under the Regulatory Flexibility Act to port out numbers to wireline carriers whose coverage area overlaps with their own and where the port will not involve a rate center change to effectuate.

In comments filed in February 2007, in the proceeding which produced the instant *NPRM*, the CPUC observed that some carriers, in porting out numbers, impose on the porting in carrier a requirement that unnecessary data be provided in the porting process. The CPUC observed that the requirement for additional data was a barrier to the porting out process, thus thwarting the purpose of local number portability.³ In its October 2007, order the FCC has resolved this concern, and the CPUC applauds the result.

³ CPUC's Comments on Petition for Declaratory Ruling, February 8, 2007, p. 3.

II. INTERCONNECTED VOIP PROVIDERS SHOULD BE REQUIRED TO COMPLY WITH N11 CODE ASSIGNMENTS AND ALL OTHER NUMBERING REQUIREMENTS

The FCC has already required interconnected VoIP providers to provide access to 911 and 711 services, and in this *NPRM*, asks whether these same providers should be required to comply with N11 code assignments. In essence the FCC is asking whether interconnected VoIP providers should be required to offer access to all abbreviated dialing patterns such as 211, 311, 511, and 811.⁴

The CPUC observes, generally, that VoIP providers consistently position themselves not as telecommunications service providers, but as information service providers. Bearing this in mind, California also notes that potential customers of any voice service offering, whether “plain old telephone service” (POTS) or VoIP, have certain expectations about what features will be included with the service. From the customer’s perspective, VoIP service is simply another means to communicate by voice over a connection to a party in a distant location. Traditional wireline telephone service customers are accustomed to certain features accompanying this type of service, such as the already required 911 and 711. In evaluating the

⁴ *NPRM*, ¶ 53. The CPUC notes that the FCC has never formally assigned 411 to “directory assistance”, nor 611 to “repair services”, although carriers across the country use 411 and 611 for those purposes, respectively.

features of an interconnected VoIP service as an alternative to traditional wireline service, a customer might not think to ask whether the N11 features, standard on wireline service, are also available with an interconnected VoIP product. Customers are far more likely to compare price and clarity of the connection when making a decision to purchase. A potential VoIP customer may be completely unaware of the presence or absence of N11 service until and unless the customer has an occasion to use such services. As a consequence, it seems appropriate for the FCC to require VoIP providers to offer basic features that consumers reasonably would assume are part of the package that accompanies a voice-transmission product.

A. Technical Feasibility

In the *NPRM*, the FCC asks parties to comment on the technical feasibility of requiring interconnected VoIP providers to comply with all N11 code assignments. The CPUC is in possession of no information that would suggest any technical reason interconnected VoIP providers could not offer their customers access to 211, 311, or 511, given that they are currently providing access to 911 and 711 per the FCC's mandate. We leave it to the providers to offer any evidence of such technical infeasibility.

B. Benefits and Burdens

The Commission seeks information about the benefits and/or burdens on small entities of requiring interconnected VoIP providers to comply with

N11 code assignments or other numbering requirements. Certainly, any regulatory requirement imposes some costs on a service provider. And, certainly, these costs may weigh more heavily on a small service provider than on a larger service provider with a bigger customer base over which to spread the expenses. That having been said, the alternative to the provider bearing the costs of offering a full set of features, regardless of the relative economies of scale, is for the customer to bear the burden of not having access to the full set of features normally associated with a voice service product.

In order to provide reasonable protection for consumers, the entity providing service, not the customer, should bear the burden of offering a complete service consistent with customer expectations. At the same time, California appreciates that in a competitive market, a provider offering more services could charge more while the provider offering a “bare bones” service could charge a bargain basement price. Should the FCC decide to grant a waiver to small entities on a competitive theory, the CPUC would urge the FCC to mandate those providers to make full disclosure at the point of sale regarding what features are omitted in exchange for a lower price. Specifically, providers allowed to not offer N11 and other benefits of numbering requirements should be required to inform prospective customers of the more minimal service being offered.

III. OTHER CONSIDERATIONS IN THE SIMPLE PORT PROCESS

A. The Receiving Carrier Should Explain the Reasons for Rejecting a Simple Port

As noted previously, the FCC has limited the porting process to no more than four data fields. While it would seem that the four-field limit would significantly reduce, if not eliminate, errors in a port request, ten-digit telephones number have a fairly wide variety of universally accepted formats for expressing that number. The NANP dialing pattern is NXX-NXX-XXXX, but that sequence can be recorded visually in several ways: 1) with the area code in parentheses followed by the prefix, a hyphen, then the four-digit line number [(NXX) NXX-XXXX]; 2) the entire number displayed with only hyphens separating various components (NXX-NXX-XXXX); 3) the entire number displayed with only spaces separating the components, (NXX NXX XXXX); 4) the number shown with no spaces between the parenthetical area code and the seven-digit line number [(NXX)NXX-XXXX]; and 5) the entire number shown with the various components separated by periods or dots, NXX.NXX.XXXX. Porting-out service request entry fields should be edited to ensure that the entered telephone number and any other number(s) conform to the requirements of the data system that will be processing the request.

Since the FCC has limited simple porting requests to only four numeric fields, it is reasonable for the carrier rejecting the request to explain all the reasons for the rejection. As discussed above, given the various ways of displaying a ten-digit telephone number, it is possible, if not likely that even simple porting requests with all required fields filled in may be rejected. Because this possibility exists, the rejecting carrier should fully explain the rejection so that the porting carrier is not subject to more than one rejection.

B. The FCC Should Not Exempt Small Entities From Porting Request Standards

In the course of its lengthy advocacy on LNP issues before the FCC, California has consistently and strenuously advocated that the *all* carriers, whether wireless or wireline or VoIP, be required to port numbers. The CPUC has taken this position in the interests of ensuring a fair competitive marketplace.

In light of this history, California does not recommend any exemption for small entities from a prompt and expeditious porting process. The genesis for a customer's porting request is presumed to be a desire to take advantage of a competitive alternative. The FCC has mandated the use of only four fields for validating a simple port, and in California's view, applying that requirement to all voice service providers, even to small entities, would not be a burden to small entities. Indeed, it seems counterintuitive that requiring

the use of only four data fields would somehow be more burdensome than, for example, using ten fields. The CPUC notes that the burden on *porting* carriers, not the providers receiving the port request, of having to fill in far more fields prompted the petition by T-Mobile and Sprint Nextel seeking FCC clarification on this very point.⁵

The benefits of the simplified porting process should be available to all customers, regardless of the size of their voice service provider. Further, the benefit to a small service provider would be a streamlined porting process available to their customers, thus placing their service on a more competitive level with larger service providers.

C. Porting intervals

The FCC asks whether it should establish rules reducing the porting interval for simple port requests.

⁵ Petition for Declaratory Rulemaking filed by T-Mobile USA, Inc. and Sprint Nextel Corporation, CC Docket No. 95-116 (filed Dec. 20, 2006).

1. Wireline-wireline and simple intermodal ports.

Specifically, the FCC proposes a porting interval of 48 hours for wireline-to-wireline simple intermodal ports.⁶ As the Commission observes, it has been ten years since the existing standard was set at four business days.⁷ The CPUC supports shorter porting intervals because shorter porting intervals benefit customers and promote competitive choice. Although no consensus has developed regarding the appropriate length of porting intervals, substantial support has evolved for the notion that four business days is no longer necessary for simple intermodal ports. In California's view, the promotion of competition requires the speediest porting interval possible. Therefore, the CPUC supports, at a minimum, adoption of a 48 hour porting interval for wireline-to-wireline simple intermodal ports.⁸ The CPUC opposes any further "refreshing of the record" on this point as unnecessary. Any further delay on this matter will only work to the disadvantage of the consumer and the competitive marketplace.

2. Wireless-wireless ports.

The Commission points out that the wireless industry has adopted a voluntary wireless-to-wireless porting standard of a 2 and ½ hours, and asks

⁶ *Id.* at ¶ 60.

⁷ *Id.* at ¶ 61.

⁸ California notes that NARUC has endorsed a 24-hour porting, which could be of even greater benefit to consumers and to competition.

if that should become a Commission rule.⁹ The CPUC again observes that the shorter the interval, the better for the customer and for competition. While California greatly appreciates the efforts of the wireless industry in establishing a voluntary standard, that standard is purely voluntary. In the longer run, if one major provider finds it advantageous to deviate from that standard on a regular basis, others may well follow, and there goes the standard. That having been said, the CPUC does not take a position on whether the Commission should establish a rule that mirrors the wireless industry standard. As a possible alternative, the FCC could monitor the wireless industry's performance under the voluntary standard to see how effective it proves to be. California has no doubt that any significant failure on the part of one or more wireless providers to meet the standard likely would lead to cascading complaints from consumers and the harmed carrier(s).

3. Other LNP Process issues

The FCC seeks comment on Charter's allegations that certain carriers' processes result in cancellation of a subscriber's dial tone for port requests delayed for operational reasons. The porting process should be transparent to both the porting out service provider and the porting in service provider.

⁹ *Id.* at ¶ 59.

This would eliminate ad hoc changes and would require the provision of a reason for rejecting a port request, as discussed above.

Further, California opposes allowing a carrier to terminate a customer's dial tone for operational reasons that have nothing to do with the customer's account standing. Such action should be prohibited and not should be a part of any porting out process.

Finally, the CPUC agrees with Charter that the FCC should declare that an interconnection agreement is not necessary and cannot be required to effectuate a porting out process. Such a requirement would be counter to the entire concept of LNP and should also be prohibited.

IV. CONCLUSION

For the reasons stated, the CPUC urges the FCC to require interconnected VoIP providers to comply with all N11 and other numbering requirements as required of other users of public numbering resources.

California further urges the FCC to require porting out service providers to limit the possibility and impact of errors in the limited data fields necessary to complete a simple port and to enact all other requirements and prohibitions that are necessary to avoid arbitrary and unforeseen limitations on a customer's ability to choose a new service provider.

Respectfully submitted,

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