



July 14, 2008

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Ex Parte Notice

Re: Local Number Portability, WC Docket No. 07-244; Telephone Number Portability, CC Docket No. 95-116; Numbering Resource Optimization, CC Docket No. 99-200

Dear Ms. Dortch:

On June 30 and July 1, 2008, the United States Telecom Association (USTelecom), the Organization for the Promotion of Small Telecommunications Companies (OPASTCO), the Western Telecommunications Alliance (WTA), and Windstream Communications, Inc. (Windstream) filed ex parte statements in the above dockets with the Federal Communications Commission (FCC or Commission), asserting that the Commission should retain the current four business day porting interval for intermodal (wireline-to-wireless or wireless-to-wireline) number porting, rather than the proposed 48-hour interval, especially for rural incumbent local exchange carriers (ILECs). The National Telecommunications Cooperative Association (NTCA)¹ agrees with USTelecom, OPASTCO, WTA and Windstream and urges the Commission to retain the current four business day interval and reject the proposed 48-hour porting interval for intermodal ports. Imposing a proposed 48-hour intermodal porting interval for many small rural ILECS will impose unnecessary financial burdens on rural consumers and their rural providers.

USTelecom correctly noted that reducing the porting interval to 48-hours will come at a considerable cost for those rural ILECs who have not yet upgraded their systems to support local number portability (LNP). As the Commission is aware, whether the Commission can legally require wireline carriers who qualify as small entities under the Regulatory Flexibility Act (RFA), which includes all NTCA members, to comply with the Commission's intermodal LNP

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents over 584 rural rate-of-return regulated incumbent local exchange carriers (ILECs). All of its members are full service local exchange carriers, and many members provide wireless, cable, broadband, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). NTCA members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

requirement is still being debated by the federal judiciary.² USTelecom's assertion that "the impact of the proposed change is greatest on mid-sized and small carriers serving regional and rural markets" accurately reflects the regulatory burdens that NTCA's members will face should the intermodal porting interval be shortened.³ These burdens will not be outweighed by the very weak demand for intermodal ports, which, according to the Commission's own analysis, is less than three percent of all ports since November 2003.⁴

The Regulatory Flexibility Act, 5 U.S.C. §601 (RFA), requires the FCC to consider alternative rules that will reduce the economic impact on small entities. All NTCA members qualify as "small entities" under the RFA. Retaining the existing four business day porting interval for intermodal ports will reduce the economic impact on small rural providers. Small rural carriers, who would otherwise use their financial resources and limited personnel to spur development of new advanced communications technologies and broadband deployment, will be forced to use those funds to develop or upgrade expensive automated systems to support a 48-hour porting interval. USTelecom agrees with NTCA's reply position that the costs of a shortened porting interval outweigh the benefits for rural customers.⁵ NTCA agrees with USTelecom's view that the Commission failed to present its own initial RFA analysis of the potential burden on small entities, and so fails to meet RFA statutory requirements under 5 U.S.C. § 603.⁶

OPASTCO and WTA described in their ex parte filing some of the characteristics of rural ILECs, such as their small subscriber base, small employee number, higher local line and equipment unit costs, that contribute to the disproportionate impact that the proposed 48-hour interval will have on small rural carriers.⁷ OPASTCO and WTA's "rational cost-based test" approach to evaluating the need for a shortened porting interval is fair and reflects the same view expressed by NTCA and USTA: Shortening the intermodal porting interval from four business days to 48 hours is not cost-justified for small rural carriers.⁸

Windstream, a mid-sized carrier, agreed with NTCA that there is little evidence of consumer dissatisfaction over the porting interval, and that the benefits from reducing the porting interval are minimal.⁹ Windstream correctly noted that reducing the porting interval will increase carrier costs by requiring additional personnel and system automation. These increased costs will, according to Windstream, "far outweigh any potential benefits," and the same is true for small rural carriers.¹⁰

² *NTCA v. FCC*, U.S.C.A. (D.C. Cir), Docket No. 08-1071 (briefs pending).

³ USTelecom Ex Parte (July 1, 2008), p. 2.

⁴ FCC Numbering Resource Utilization in the United States Report, Wireline Competition Bureau (rel. Mar. 2008), p. 35, table 14, available at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-280978A1.pdf.

⁵ USTA Ex Parte, p. 1; NTCA Reply Comments (Apr. 21, 2008), p. 2.

⁶ *Id.* at 3.

⁷ OPASTCO and WTA Ex Parte (July 1, 2008).

⁸ *Id.*, Attachment, p.1.

⁹ Windstream Ex Parte (June 30, 2008), p. 2; NTCA Reply Comments, p. 2.

¹⁰ *Ibid.*

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For these reasons, the Commission should reject the proposed 48-hour intermodal porting interval and should retain the current four business day interval.

Sincerely,

/s/ Daniel Mitchell
Daniel Mitchell
Vice President, Legal & Industry

/s/ Karlen Reed
Karlen Reed
Regulatory Counsel

cc: Chairman Kevin Martin
Commissioner Jonathan Adelstein
Commissioner Michael Copps
Commissioner Robert McDowell
Commissioner Deborah Taylor Tate
Dana Shaffer, WCB Chief