

April 21, 2009

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:

The National Telecommunications Cooperative Association (NTCA)<sup>1</sup> submits this ex parte letter to oppose the proposed 48-hour intermodal number porting interval. The Commission should retain the current four business day porting interval for rural incumbent local exchange carriers. Despite inflated and misleading reports, there is little consumer demand for intermodal porting and a 48-hour porting interval would unnecessarily burden rural providers and their subscribers.

Commission reports of instances of wireline to wireless porting appear to be significantly inflated and misleading. Beginning with the July 2007 data, the method of determining whether a port came from a wireline or wireless carrier changed.<sup>2</sup> For numbers that have been ported multiple times, the *original* carrier is used to determine the porting carrier's type. Therefore, if a customer ported a wireline number to a wireless carrier in 2006 and ported to a different wireless carrier in 2007 and another wireless carrier in 2008, the port has been counted as a wireline to wireless port three times, when in fact there was only one wireline to wireless port. The Commission's Number Utilization Report thus appears to likely overstate the number of wireline to wireless ports and understate the number of wireless to wireless ports.<sup>3</sup> However, even if one accepts the Commission's flawed and inflated analysis, less than 7% of the total ports reported in

1 NTCA is the industry association that represents small, rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 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's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

2 FCC Number Resource Utilization in the United States Report, Wireline Competition Bureau, Table 15, p. 36, note 3 (rel Mar. 2009). [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-289173A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-289173A1.pdf)

3 The report provides no usable information about the number of customers who port from wireless to wireline. If a customer ports a wireline number to a wireless carrier and then back to a wireline provider, the port is counted as a

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the first three quarters of 2008 were wireline to wireless ports.<sup>4</sup> There is simply little consumer demand for wireline to wireless porting.

Many small and rural telecommunications providers do not have automated systems to accomplish ports. Every step of the process requires human action and that takes time. A 48-hour interval will only be accomplished if small companies upgrade their systems at considerable cost or hire additional staff.

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. Rural ILECs have small subscriber bases over which to spread costs, few employees, and higher local line and equipment unit costs than large carriers. 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, should not be forced to use those funds to develop or upgrade expensive automated systems to support a 48-hour porting interval.<sup>5</sup>

Given the very limited consumer demand for intermodal ports, the fact that most porting requests seek an interval of more than four days,<sup>6</sup> and the fact that small carriers should be focusing their resources on broadband deployment, not solutions in search of problems, the costs of a shortened porting interval far outweigh any perceived consumer benefit.

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/ Jill Canfield  
Jill Canfield  
Senior Regulatory Counsel

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intramodal wireline to wireline port. The wireless to wireline port is not reported.

4 Number Utilization Report, p. 36, Table 15.

5 Further, 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 requirement is still being debated by the federal judiciary. *NTCA v. FCC*, USCA (DC Cir), Docket No. 08-1071 (decision pending).

6 Windstream ex parte in WC Docket No. 07-244, Local Number Portability Porting Interval and Validation Requirements; CC Docket 95-116, Telephone Number Portability (filed April 16, 2009).