



May 5, 2009

Marlene H. Dortch
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Local Number Portability Porting Interval and
Validation Requirements
WC Docket No. 07-244**

Dear Ms. Dortch:

The Independent Telephone & Telecommunications Alliance (ITTA) hereby submits this *ex parte* presentation to the record of the above-captioned proceeding. ITTA is a trade association of mid-sized telephone carriers, which collectively provide service to more than 30 million access lines across 44 states. ITTA has previously participated in this proceeding, and submits this additional information for the record.

**1. For Non-Automated Carriers, Porting Remains a Labor Intensive Activity that
Requires Multiple Personnel Interactions**

Proposals to reduce the porting interval appear to assume that most carriers have automated their operations, and that the costs would be nominal, at most. For a significant segment of ITTA members, however, a shortened porting interval would require burdensome, expensive upgrades, the costs of which must be considered by the Commission and slated for explicit cost recovery, as described more fully below.

Many of the lines served by ITTA members are located in rural regions. The porting capabilities of ITTA members vary: some employ greater automation for taking and processing LNP Local Service Requests (LSRs) than others, and many ITTA small operating companies process LSRs without an integrated order platform. A manual port can require numerous steps, including: passing the service order from the "requesting" carrier to the "providing" carrier; physical examination of the service order to ascertain the nature of order; delivery of the order to personnel who can make the change; and, a physical change in the switch.

Reducing the porting interval to two standard business days would compel carriers to undertake costly upgrades, particularly through potential creation of otherwise unnecessary electronic order processing platforms. In addition, costs would increase if the interval was reduced to two calendar days, due to a necessary change in staffing standards. The imposition of a calendar-day regime would require carriers to support staffing during overnights hours, weekends, and holidays. Even where carriers are fully automated, some ports inevitably "fall out," and carriers would be required to increase staffing to deal with those few, yet nearly certain-to-occur, events. In fact, it is likely such issues would emerge during off-hours, since offshore contractors used by porting-out carriers may send batches of port-out requests during non-U.S. business hours.

2. Many ITTA Members Are Not Presented with Two-Day Port Requests on a Frequent Basis

For ITTA members, reduction of the porting interval to two business days would serve relatively little purpose with regard to wireline to wireline LNP, because the typical wireline porting request is for several days, if not multiple weeks, from the date that the LNP request is submitted due to competitors' truck roll schedules. Thus, establishment of processes for a shorter LNP interval would be solely for the benefit of wireline to wireless porting, an infrequent event in many ITTA areas. One ITTA member reports that each of its operating companies receives an overall average of just 12 porting requests per month (measurement based on six months data collected from numerous operating companies serving multiple states).

3. Cost Recovery on a Competitively Neutral Basis is Necessary

The FCC must ensure that its approach to cost recovery is implemented on a competitively neutral basis. The Communications Act of 1934, as amended, is clear about the need for competitive parity in the context of local numbering portability: "[t]he cost of establishing . . . number portability shall be borne by all telecommunications carriers on a competitively neutral basis. . ." 47 U.S.C. 251(e)(2). Given this directive, the Commission historically permitted recovery of LNP costs that were related to both initial upgrades (network and database) and on-going costs. See, *Telephone Number Portability Cost Classification Proceeding*, CC Docket No. 95-116, RM 8535, DA 98-2534, paras. 8, 74 (1998). Recovery was enabled through a line-item charge. *Id.* at para. 135. Other voice providers have been permitted to recover costs in "any lawful manner" they desire. *Telephone Number Portability: Third Report and Order*, CC Docket No. 95-116, RM 8535, FCC 98-82, at para. 136 (1998).

It is, therefore, both unlawful and reflective of bad policy to permit a cable or wireless provider to fully recover its local number portability costs in any lawful manner it desires, while an incumbent local exchange carrier (ILEC) is not allowed to recover its costs in full, or perhaps not at all. Such a mechanism would be in stark contrast to long-standing Commission support for competitive parity. The Commission has stated its general goal of "ensur[ing] regulatory parity among providers of similar services" in a manner that "will minimize marketplace distortions arising from regulatory advantage." See *Telephone Number Requirements for IP-Enabled Service 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: Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking*, WC Docket Nos. 07-243, 07-244, 04-36, CC Docket Nos. 96-115, 99-200, FCC 07-188, 22 FCC Rcd 19531, at para. 1 (2007). In addition to conflicting with prior Commission approach, a disparate cost recovery regime would also be contrary to Congressman Rick Boucher's recent request that the Commission take into account cost recovery where system upgrades would be required. Letter from Congressman Rick Boucher to Acting FCC Chairman Michael J. Copps (April 20, 2009).

ITTA's member companies must be permitted to recover the costs of meeting a shorter porting interval. ITTA, accordingly, asks the Commission to continue its past practice of permitting ILECs to attain recovery of their porting costs in a separate line item. Other recovery mechanisms may be more problematic. For rate-of-return carriers, recovery as a part of their rate base could be limited to LNP costs that can be deemed qualifying "interstate" costs. For price cap carriers, exogenous cost treatment could result in delayed, incomplete, or no recovery. Price cap carriers may be forced to submit individual waivers for exogenous cost treatment – an unnecessary step, given legitimacy of porting costs could be confirmed by cost data included in tariff revisions.

Moreover, price cap carriers likely would be prevented from obtaining cost recovery in many areas where a carrier is already at the cap for the subscriber line charge (SLC). Pursuant to Section 61.45(d) of the Commission's rules, the Commission should seek to avoid such problems by, at a minimum, clarifying that price cap carriers are permitted to use an exogenous cost adjustment to achieve *full* recovery of any legitimate, carrier-specific costs incurred due to a reduction in the porting interval. This finding should be made *concurrent* with adoption of any new porting rule.

The costs are expected to be high. In November 2003, the Commission asked the NANC to investigate methods for reducing the intermodal porting interval. The Intermodal Porting Interval Issue Management Group (IMG) was established for that purpose and issued a report of its findings on May 3, 2004. The group included a broad spectrum of industry representatives and, after working through various alternatives, recommended a cost effective solution that reduced the porting interval to 53 hours. The group reported that this improvement could be achieved with a total industry price tag of less than \$100 million. At the same time, the report showed that the cost of reducing the intermodal porting interval just four more hours, to 49 hours, was in the range of \$650 million to more than \$1 billion. See *NANC Report and Recommendation on Intermodal Porting Intervals*, May 3, 2004 (IMG Report). By way of example of what is included in costs, one ITTA member reports that a transition to two business days would require a 70 percent increase in the company's order processing team.

ITTA urges the Commission to, as it has done previously, include explicit cost recovery elements in LNP processes to ensure that no carrier is disadvantaged competitively vis-à-vis its ability to recover LNP costs.

4. A Reasonable Transition is Necessary

The shortening of the porting interval will require non-automated carriers to overhaul electronic systems and/or staffing. An adequate transition of no fewer than 18 months would be necessary to accommodate system upgrades, staffing requirements, and development of protocol related to a 2-business day standard. In addition to system protocols development, carriers would also need sufficient time in the transition period to beta-test processes and ensure appropriate and sufficient training for personnel.

ITTA urges the Commission to consider the matters discussed above, and to ensure that carriers are accorded appropriate opportunity to recover LNP costs, and to provide an adequate transition period for implementation of any new requirements.

Respectfully submitted,

s/Joshua Seidemann
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