

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matters of)	
)	
Local Number Portability Porting Interval and Validation Requirements)	WC Docket No. 07-244
)	
Telephone Number Portability)	CC Docket No. 95-116

REPLY COMMENTS OF LEVEL 3 COMMUNICATIONS, LLC

Level 3 Communications, LLC (“Level 3”) hereby replies to the comments filed in response to the Commission’s *Order and Further Notice of Proposed Rulemaking* in the above-captioned proceeding (“*Porting Interval Order*”).¹ The Commission has interpreted the number portability obligation “to mean that consumers must be able to change providers while keeping their telephone number as easily as they may change providers without taking their telephone number with them.”² Accordingly, the Commission should not interpret the simple port definition in a manner that makes it more difficult for a consumer to keep its number when switching to a VoIP reseller than when switching to a reseller of traditional wireline services, which the *Porting Interval Order* appears to do. Moreover, the Commission should reduce the information that losing carriers can request as a condition of completing a simple port and allow the industry to standardize local service request (“LSR”) forms. These steps are necessary to

¹ *Local Number Portability Porting Interval and Validation Requirements; Telephone Number Portability*, Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6084 (2009) (“*Porting Interval Order*”).

² *Id.*, 24 FCC Rcd at 6085 ¶ 2 n.4.

prevent some carriers from using unique processes to impede the ability of end users to successfully port a telephone number.

I. The Commission Must Clarify the Simple Port Definition to Ensure Competitive and Technical Neutrality.

The Commission's standing definition of a simple port explicitly excludes "resellers."³ In the recent *Porting Interval Order*, however, the Commission appears to have advertently or inadvertently removed all interconnected VoIP resellers from that exclusion, without mentioning traditional resellers. Responding to concerns expressed by AT&T that some cable VoIP providers were improperly invoking the reseller exception to escape the porting interval, the Commission stated:

The Commission's 2007 *VoIP LNP Order* made clear that interconnected VoIP providers are obligated to take all steps necessary to initiate or allow a port-in or port-out itself or through its numbering partner on behalf of the interconnected VoIP customer. The Commission also made clear that when an interconnected VoIP provider obtains its NANP telephone numbers through commercial arrangements with one or more traditional telecommunications carriers, the intervals that would be applicable to ports between the numbering partner and the other provider, if the port were not related to an interconnected VoIP service, will apply to the port of the NANP telephone number between the numbering partner and the other provider when the end user with porting rights is a customer of the interconnected VoIP provider.⁴

Rather than clarifying the application of the reseller exception, this statement—without a concomitant change in the simple port definition—has caused confusion and may produce unequal treatment of carriers (and their customers) depending on the technology being used. The Commission could not have intended such a result and should clarify or amend the simple port definition to ensure competitive and technical neutrality.

³ *Id.*, 24 FCC Rcd at 6086 ¶ 3 n.11.

⁴ *Id.*, 24 FCC Rcd at 6090 ¶ 9 (citations omitted).

Specifically, to the extent that the language in the *Porting Interval Order* is read to apply one-day porting intervals to all interconnected VoIP resellers, the Commission must abandon the reseller exception altogether and apply the one-day interval to traditional resale arrangements, including UNE loop transfers.⁵ There is simply no technological or competitive reason to apply a one-day porting interval to interconnected VoIP resellers, but not to traditional resellers. As AT&T states, the aim of the porting obligations are “not to protect any particular competitor, or class of competitor, but to promote competition generally,” which “cannot be achieved if all service providers are not held to the same standard.”⁶ Subjecting some, but not all, resale arrangements to one-day porting intervals will only allow traditional carriers to engage in anti-consumer and anti-competitive behavior, resulting in harm to consumers.

II. The Commission Should Not Require Additional Information Fields for Completing Simple Ports and Should Allow the Industry to Standardize LSR Forms.

The Commission should implement measures that will facilitate the porting process, and reject invitations to increase regulation and frustrate consumer desire.⁷ Accordingly, the Commission should reduce, not expand, the amount of information that can be required by losing carriers to complete a simple port. By moving to two fields—telephone number and zip code—the Commission will avoid the customer frustration and

⁵ See Comments of Comcast Corporation at 3-4, WC Docket No. 07-244 and CC Docket No. 95-116 (filed Aug. 3, 2009) (arguing that the definition of simple port should include ports from CLECs using a UNE loop or sub-loop to a facilities-based carrier).

⁶ Comments of AT&T Inc. at 6, WC Docket No. 07-244 and CC Docket No. 95-116 (filed Aug. 3, 2009) (“AT&T Comments”).

⁷ See, e.g., Comments of Qwest Corporation at 6-7, WC Docket No. 07-244 and CC Docket No. 95-116 (filed Aug. 3, 2009) (asking the Commission to allow carriers to require additional information).

potential for anti-competitive behavior that can arise when account numbers and passcodes are required to complete a port. Finally, Level 3 agrees with many commenters that LSR forms should be standardized to facilitate the porting process.

Only two information fields—the telephone number and the zip code—are truly necessary to successfully complete a port. Level 3’s experience in the short time that these fields have been allowed to be required by losing carriers indicates that passcode and account number information are too susceptible to abuse. Customers attempting to port a number often either do not have their passcode or account number or some other provider in the service chain has convinced the losing carrier to implement service code protections on their behalf. Accordingly, to achieve the goals of a competitive marketplace, Level 3 agrees with those commenters asking the Commission to do away with the requirement to provide a passcode and/or an account number, which can delay or prevent consumer efforts to switch carriers.⁸

The passcode and account number requirements not only frustrate consumers that genuinely want to switch providers, but are also used by carriers as anti-competitive tools to create roadblocks in the porting process. The Nebraska PSC put it succinctly, stating that passcode requirements have “the practical effect of being anti-competitive rather than pro-consumer.”⁹ This is especially true for customers attempting to switch to or from a reseller, VoIP or otherwise, as these ports often involve multiple carriers. In

⁸ See Comments of the Nebraska Public Service Commission at 4-6, WC Docket No. 07-244 and CC Docket No. 95-116 (filed Aug. 3, 2009) (“Nebraska PSC Comments”); Comments of Sprint Nextel Corporation at 13-14, WC Docket No. 07-244 and CC Docket No. 95-116 (filed Aug. 3, 2009); Comments of Vonage Holdings Corporation at 7-11, WC Docket No. 07-244 and CC Docket No. 95-116 (filed Aug. 3, 2009) (“Vonage Comments”).

⁹ Nebraska PSC Comments at 5.

Level 3's experience, other carriers can and do use passcode requirements to unnecessarily delay the porting process. It is therefore particularly critical that the Commission eliminate the passcode and account number requirements to ensure that providers involved in resale arrangements are able to meet any one-day porting intervals that the Commission may impose.

Level 3 also agrees with commentors such as the Nebraska PSC that standardized LSR forms will improve porting and reduce the ability of losing carriers to require "optional information,"¹⁰ such as letters of authorization, which is a common, but impermissible, request. This will not only reduce customer frustration, but will "also make it easier for competitors when they enter new markets."¹¹ There is no need, however, for the Commission to mandate any particular form. The standardization process should be left to the industry through standards-setting organizations such as the Alliance for Telecommunications Industry Solutions' Ordering and Billing Forum and the North American Numbering Council.¹²

Level 3 recognizes that there is concern among providers that without built-in protections, slamming will become rampant. Further, there is skepticism that a back-end-loaded remedial system can be sufficiently effective for consumers today who have become dependent upon uninterrupted access to their communications services.

¹⁰ *Id.* at 6–7 (internal quotation marks omitted).

¹¹ *Id.*

¹² *See, e.g.*, Comments of the Alliance for Telecommunications Industry Solutions' Ordering and Billing Forum at 4-5, WC Docket No. 07-244 and CC Docket No. 95-116 (filed Aug. 3, 2009); AT&T Comments at 6-8; Comments of Cbeyond, Integra, and One Communications at 7-8, WC Docket No. 07-244 and CC Docket No. 95-116 (filed Aug. 3, 2009); Comments of XO Communications, LLC at 7-8, WC Docket No. 07-244 and CC Docket No. 95-116 (filed Aug. 3, 2009).

However, rather than allowing some carriers to exploit these fears and implement methods to prevent porting in order to retain revenues, the Commission should acknowledge these concerns and commit to effective enforcement of slamming regulations. Level 3 believes that the benefits of facilitating faster and easier porting through standardized LSR forms and fewer information fields will outweigh the risks of slamming when there is effective enforcement. As Vonage's Comments point out, the Commission has already recognized that the wireless industry has agreed to require fewer information fields, but has not seen a corresponding increase in slamming complaints.¹³ Similarly, there seems to be no consensus that faster porting will, in fact, increase the risk of service outages. As long as the Commission utilizes its enforcement authority to address incidental service outages and effectively penalize true instances of slamming, consumers will benefit from more rapid and straightforward porting.

¹³ Vonage Comments at 7.

Conclusion

To ensure that consumers have flexibility in the quality, price, and variety of their telecommunications services, the Commission must implement a simple port definition that is competitively and technically neutral and take measures that facilitate, rather than frustrate, the porting process.

Respectfully submitted,



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