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 BROADVIEW NETWORKS, INC., CAVALIER TELEPHONE, LLC, NEW EDGE NETWORKS, NUVOX, U.S. TELEPACIFIC CORP. D/B/A TELEPACIFIC COMMUNICATIONS AND XO COMMUNICATIONS, LLC

Charles C. Hunter
Executive Vice President & General Counsel
Broadview Networks, Inc.

Brad Lerner
Counsel
Cavalier Telephone, LLC

Penny H. Bewick
Vice President-External Affairs
New Edge Networks, an EarthLink Company

Susan J. Berlin
VP, Senior Regulatory Counsel
NuVox

Marilyn H. Ash,
Director, Public Policy
U.S. TelePacific Corp. d/b/a TelePacific Communications

Lisa R. Youngers
Vice President, Federal Affairs
XO Communications, LLC

August 31, 2009

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Broadview Networks, Inc., Cavalier Telephone, LLC, New Edge Networks, NuVox, U.S. TelePacific Corp. d/b/a TelePacific Communications and XO Communications, LLC (hereinafter "Joint CLEC Commenters") hereby reply to the initial comments filed in response to the Federal Communications Commission's ("FCC's" or "Commission's") Notice of Proposed Rulemaking in the above-captioned proceeding.[1] The Joint CLEC Commenters commend the efforts of the Commission, state regulators and the industry to improve service for consumers without unnecessarily raising the costs of providing service and thus the price consumers must pay to receive such services. Cooperation and collaboration in good faith are particularly important with respect to local number portability ("LNP") because any change to the porting rules can have a very disparate impact on service providers using different technologies or

[1] *Local Number Portability Porting Interval and Validation Requirements and Telephone Number Portability*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 07-244 and CC Docket No. 95-116, ¶ 19 (2009) ("Porting Interval Order" or "2009 Porting NPRM").

operating in different segments of the marketplace, as the initial comments in this proceeding demonstrate.

The Joint CLEC Commenters agree with Qwest that the Commission should fully review the report being developed by the North American Numbering Council ("NANC"), including any minority opinions, before taking further action in this proceeding.[2] However, the importance of a full and independent review by the Commission of all recommendations by NANC cannot be underestimated, particularly in light of the process for reaching "consensus" in the NANC's Local Number Portability Administration Working Group ("LNPA-WG") and the minimal wireline CLEC membership on the NANC. In the interim, the Joint CLEC Commenters submit these reply comments in an effort to explain how various proposals would impact many wireline CLECs, their customers, and anyone who ports a number to or from these CLECs.

I. THE DEFINITION OF "SIMPLE PORT" SHOULD EXCLUDE ALL PORTS REQUIRING MULT-PARTY COORDINATION, COMPLEX SWITCH TRANSLATIONS, OR ADDITIONAL PROCESSING STEPS

A. The Commission Should Ensure that its Rules and Policies Facilitate Standardization and Automation of Port Processing

The wireless industry has done a commendable job in implementing a voluntary 2.5 hour porting interval for wireless-to-wireless ports. The only way the wireless industry was able to accomplish this goal was through automation of their port processing systems. Automation is facilitated by standardization, which is feasible for ports that meet the current definition of simple ports. The wireless industry also

[2] Comments of Qwest Corporation at 1.

benefited from the fact that the vast majority of wireless-to-wireless ports meet the current definition of simple ports. Meeting a porting interval of 2.5 hours in the absence of standardization and automation simply is not feasible for carriers that handle a significant volume of ports. Therefore, Joint CLEC Commenters disagree with any suggestion that wireline or intermodal ports should be completed within a 2.5-hour interval.

The industry as a whole should continue to move towards standardization where possible in order to facilitate further streamlining and automation of porting processes. Automation is feasible for groups of ports that:

- Share common and predictable characteristics;
- Do not require individualized processing or complex switch translations;
- Do not require communication or coordination among multiple parties; and
- Involve a sufficient volume to warrant the time and expense necessary to create automated processing.

The current definition of simple port can facilitate standardization and cost effective automation because the definition encompasses ports that do not require complex individualized processing or communication among multiple parties. Indeed, the current definition is the "default" category for ports because it is crafted to include all ports that do not involve specific features or characteristics that make the port "complex."

Some parties now ask the Commission to eliminate some of the current exceptions to the definition of simple port. However, the elimination of some of these exceptions would actually interfere with efforts to standardize and automate, and thus could slow the overall improvement in the porting process from the perspective of the consumers. This is particularly the case with respect to exceptions that encompass

groups of ports that do not share sufficient commonality or that require multi-party coordination or involve complex switch translations. Mixing these more complex port requests into the category of simple ports would undermine a carrier's ability to streamline its processes for other truly simple ports.

In addition to interfering with efforts to standardize and streamline, elimination of some of the exceptions to the definition of simple ports would increase the cost of processing port requests, which increases the rates consumers pay for service, and could result in more porting errors. Injudicious elimination of some of the exceptions to the definition of simple ports would also make it much more difficult for carriers to set consumer expectations with respect to the processing of their port requests. Specifically, if the Commission expands the definition of simple ports to cover ports that often cannot be processed within the shorter time interval, consumers who experience a delay after being told that their port would be processed within the shorter interval for simple ports will be harmed more than if they had been told about the longer porting interval in the first instance.

B. Accounts with Multiple Telephone Numbers or Lines Should Not Be Included In the Definition of Simple Ports

Ports involving accounts with multiple telephone numbers or lines should continue to be excluded from the definition of simple ports because they typically involve several steps beyond those required for ports that meet the current definition of simple ports. Particularly, any port of a single number from a multi-line account involving DS1 or DS3 necessarily involves complex switch translations or transfer of other services before the port can occur.[3] The complexity of ensuring that the correct number or

[3] Comments of Cbeyond, Integra and One Communications at 5.

numbers are ported without disrupting other lines and services make these types of ports much more difficult to automate and process within the interval for simple ports. This complexity does not vary depending upon whether all lines and services are ported or only some: the Old Service Provider ("OSP") still must review the port request to ensure that no other lines or services will be impacted by the request. Furthermore, the OSP's process does not differ whether the multiple-line account holder is an end-user customer or a reseller customer because thorough review is necessary regardless of whether a porting-out carrier is the old network service provider for a reseller or the old local service provider (and old network service provider) for an end-user.

Moreover, since different carriers offer different types of services and have different scopes of service offerings, the fact that some carriers could process multiple-line ports within one business day does not mean that most carriers can do so,[4] or that the benefits of mandating that all carriers do so would outweigh the cost and burdens of implementing the necessary automated processing systems. Accordingly, the Joint CLEC Commenters disagree with any suggestion that multiple-line ports where all numbers are ported should be included within the definition of simple ports.[5] The Joint CLEC Commenters instead respectfully submit that the definition of simple port should

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[4] Comments of Comcast Corporation at 5 ("The fact that these providers currently are able to complete such multi-line transfers within the simple port interval plainly indicates that such reassignments do not create any significant administrative or other problems beyond those involved in the transfer of a single line. . . . [P]roviders that currently offer to complete the port of multiple lines within the simple port interval should continue to do so under the same circumstances when the shorter interval takes effect.").

[5] See Comments of AT&T Inc. at 4 (proposing to include in the definition of simple ports those involving "up to and including 20 telephone numbers *as long as the entire customer account is being moved from one provider to another*") (emphasis added); Comments of T-Mobile USA, Inc. at 5 (proposing to categorize as simple ports, those of "multiple line accounts *that do not require special coordination between providers*") (emphasis added).

include only single line DS0 (POTS) ports on single-line accounts that require no coordination or other additional work.[6]

C. Reseller Accounts Should Not Be Included Within the Definition of Simple Ports Due to the Diversity of Reseller Arrangements

The types of potential arrangements between carriers and resellers can be as numerous as the quantity of resellers themselves. Moreover, as technology evolves, existing arrangements between carriers and resellers will be modified, and new arrangements most certainly will be developed. The only commonality associated with the involvement of a reseller is the fact that the underlying carrier has no relationship with the end user. Different reseller arrangements will necessitate different levels of multi-party communication and coordination. Indeed, this is true even with respect to reseller arrangements involving interconnected VoIP services.

Although some reseller arrangements might involve little coordination between the three or four parties involved (*i.e.*, old network service provider, old reseller, new service provider and, potentially, new reseller), others require substantial coordination. Indeed, this is the reason ports involving resellers have traditionally been excluded from the definition of simple ports. The diversity alone of potential reseller arrangements mandates that they be excluded from the definition of simple ports for the reasons set forth above, even if some reseller arrangements may facilitate single-line ports within the simple port interval.

This analysis would also apply to providers of interconnected VoIP services: if a port in fact involves a reseller arrangement between unaffiliated service providers, the reseller exemption would continue to apply, understanding that the mere

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[6] Comments of Cbeyond et al. at 1.

presence of interconnected VoIP services alone may not create a reseller arrangement where one otherwise would not exist. Thus, rather than eliminating the reseller exemption altogether, or even ruling that it is never applicable if one or more of the service providers involved in the port relies upon interconnected VoIP technology, the Commission should continue to rule that carriers cannot enter into agreements or arrangements which are designed merely to delay the porting process. In this manner, the Commission can correctly target unreasonable practices without eliminating a valid exception to the definition of simple ports that reflects the additional coordination and work necessary for processing ports involving multiple parties.

D. The Definition of Simple Ports Should Not Include Ports from CLECs Utilizing UNE Loops

The Joint CLEC Commenters support efforts to provide consumers with the ability to port numbers in the shortest timeframe possible and therefore agree that ports involving an unbundled network element ("UNE") loop (or sub-loop) should be considered a non-simple port. Because non-loop UNEs need not be transferred, but instead remain on the carrier's network serving multiple customers, a carrier's use of these non-loop UNEs (such as OSS, E911, and dedicated transport) to provide service to a customer need not impact whether a port of that customer's number is classified as a simple or non-simple port.[7]

The Commission should not, however, modify the definition of simple ports to include ports from a CLEC that provides services via UNE loops to an ILEC that provides the UNEs.[8] The ILECs that support this modification claim that CLECs can

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[7] Comments of Cbeyond et al. at 4.

[8] *See, e.g.*, Comments of AT&T Inc at 3-4; Comments of Qwest Corporation at 6 (claiming that when a CLEC utilizing a UNE ports numbers to an ILEC the ILEC

complete these types of ports in a single business day while admitting that they themselves cannot meet the one-business-day interval when porting such lines to CLECs. Specifically, Qwest, Verizon and AT&T admit that ports from an ILEC to a CLEC utilizing a UNE loop are not simple ports and cannot be completed within the one-business-day timeframe.[9]

The Joint CLEC Commenters agree with Cbeyond, Integra and One Communications ("Cbeyond Commenters") that CLECs, like any carrier porting a number associated with UNE loops, must take additional steps to port numbers associated with UNE loops to ILECs, and thus ports involving UNE loops should not be categorized as simple ports.[10] As the Cbeyond Commenters explain, CLECs often encounter significant delays when transferring control of a loop back to an ILEC, which increases the risk that a customer could lose service if the port occurs before the loop cutover.[11] Moreover, the "modification" requested by the ILECs would create a competitive lack of parity between carriers because ILECs and CLECs would be required to comply with different porting intervals for similar ports. Unlike the ILECs, whose ports would not be subject to the simple port interval, CLECs alone would be forced to incur greater costs and risk more errors as they strive to comply with the one-business-day interval. The Joint CLEC Commenters also agree with the Cbeyond Commenters that customers may

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undertakes most of the work to complete the port and thus the CLEC is not doing anything that makes the port something other than a simple port.); Comments of Verizon at 3 (same).

9 *See, e.g.*, Comments of Qwest Corporation at 5-6 (explaining that because the porting numbers to CLECs purchasing UNEs the ILEC has to take additional steps within its network to prepare to port the numbers and must engage in coordinated actions with the CLECs to complete the port, such ports should be excepted from the definition of simple ports).

10 Comments of Cbeyond et al. at 3-4.

11 Comments of Cbeyond et al. at 3.

gain the false impression that the ILEC's service is higher quality than that of the CLEC because ports to ILECs will be completed more expeditiously than ports to CLECs.[12] The Commission should not seriously consider creating this type of competitive disparity with respect to wireline-to-wireline ports.

The Commission should avoid unnecessarily complicating the definition of simple ports. In light of the complications that arise whenever a UNE loop is associated with a number to be ported, the Commission should continue to exclude UNE loops (and sub-loops) from the definition of simple ports, particularly since the benefits to be gained from the proposed modification would be outweighed by the harms it would cause.

E. The Commission Should Clarify and Narrow the Exclusion from the Definition of Simple Ports for Complex Switch Translations

The Joint CLEC Commenters support measures to improve customer service by simplifying the porting process in ways that facilitate standardization and automation. The Commission can improve the porting process for consumers by clarifying and narrowing the exclusion from the definition of simple ports for complex switch translations. Therefore, the Joint CLEC Commenters agree with AT&T, T-Mobile and Vonage that some of the examples of complex switch translations in the current exclusion do not interfere with the processing of ports and thus do not need to be excluded from the definition of simple ports. Specifically, the Joint CLEC Commenters agree that the presence of the following features do not necessitate complex switch translations, and thus do not need to be excluded from the definition of simple ports:

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[12] Comments of Cbeyond et al. at 3-4.

- Custom Local Area Signaling Services ("CLASS") such as Caller ID and call forwarding;[13] and
- Supplemental features such as "Distinctive Ring" and "Remote Call Forwarding." [14]

By clarifying that these CLASS and custom calling features do not fall within the exclusion for complex switch translations, the Commission will improve the porting experience for consumers and reduce the likelihood of inter-carrier disputes.

F. Ports Involving Certain Multiple Services on the Same Loop Should Not Be Included in the Definition of Simple Ports

The Joint CLEC Commenters agree that clarification by the Commission of the definition of simple ports will improve efficiency and decrease the likelihood of intercarrier porting disputes. However, the "clarifications" suggested by some parties would actually change the rules in ways that harm the public interest. For example, the Commission should not rule that ports involving lines with DSL service are simple ports.[15] Ports involving lines with DSL service, just like any port involving multiple services on the same line, require carriers to take additional actions and steps beyond those required to process simple ports, as some of the parties who urge this "clarification"

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13 *See* Comments of T-Mobile USA, Inc. at 6; *see also* Comments of AT&T Inc. at 5 (noting that certain CLASS and custom calling features "do not implicate complex switch translations . . . because . . . these services are discontinued when the telephone service is disconnected from the serving switch.").

14 *See* Comments of Vonage Holdings Corporation at 5 (explaining that supplemental features such as "Distinctive Ring" and "Remote Call Forwarding" typically are "software-based supplemental features that do not affect the underlying transmission line from the carrier's central office to the customer's location.").

15 *See* Comments of CenturyLink at 4; Comments of T-Mobile USA, Inc. at 6; Comments of the Nebraska Public Service Commission at 1-2 and Comments of Vonage Holding Corp. at 11-12.

recognize.[16] When a customer with multiple services such as DSL seeks to port its telephone number, the customer often is unaware that by porting its telephone number, it will lose not only its voice service but also any data services that are provided via that loop unless the old service provider converts the customer to a stand alone data service before the port request is processed. The conversion is particularly important to customers who are converting to a VoIP service, which is frequently why they submitted a request to port their number associated with TDM services to a VoIP service provider in the first place, for use with their ***existing*** underlying high-speed data connection. Most carriers cannot take the steps necessary to protect the consumer during the interval for simple ports in these multi-service situations. Therefore, the Commission should clarify that ports involving multiple services on the same line, including DSL, are excluded from the definition of simple ports.

II. THE COMMISSION SHOULD TAKE STEPS TO FACILITATE STANDARDIZATION OF LSR AND PORTING PROCESSES

Most commenters agree that some form of standardization is necessary to improve the number porting process regardless of their position on other porting issues. The Joint CLEC Commenters urge the Commission to take the steps set forth below in order to improve the efficiency of the porting process.

A. Standardization of CSR and LSR Processing is Crucial to the Quick and Accurate Completion of Porting Requests

The Joint CLEC Commenters agree that the FCC should facilitate the standardization of processing Local Service Requests ("LSR"). There should be standardization of the fields necessary to provision ports as well as those necessary to

[16] *See, e.g.*, Comments of T-Mobile USA, Inc. at 6 (recognizing that "an ILEC may have to unbundle its DSL service from a home telephone line on a customer account in order to port the home phone number").

validate the port, then the Commission should direct the North American Numbering Council ("NANC") to develop a standardized LSR or port form based on those validation and provisioning fields. The Joint CLEC Commenters agree with the Nebraska PSC that a standardized LSR form would simplify the processing of port requests and make it easier for new competitors to enter new markets.[17] As AT&T correctly observes, the wireless porting process demonstrates that standardization of the fields used to process ports is a valuable component of a quick porting process.[18] The Joint CLEC Commenters agree with the Cbeyond Commenters and Verizon and join in lauding the efforts of the NANC and Alliance for Telecommunications Industry Standards ("ATIS") OBF in developing port standards.[19] The Commission should wait for the ATIS to complete its work developing an industry solution, and then, as appropriate, mandate the use of a uniform LSR form.

The Joint CLEC Commenters also agree with Comcast, the Nebraska PSC and Vonage that pass codes should not be required for port validation due to the "delay and inconvenience" associated with the use of pass codes.[20] As the Nebraska PSC and Vonage correctly observe, due to the decline in the use of account numbers and pass codes, many port requests may be rejected if the customer supplies incorrect information, thereby delaying the porting process and frustrating consumers.[21] The Nebraska PSC also correctly notes that requiring the use of pass codes can create an opportunity for a

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17 Comments of Nebraska PSC at 7.

18 Comments of AT&T Inc. at 6-7.

19 Comments Cbeyond et al. at 8-9; Comments of Verizon at 3-4.

20 Comments of Comcast Corporation at 6-8; Comments of Nebraska PSC at 3-5; Comments of Vonage Holding Corp. at 8-9.

21 Comments of Vonage Holding Corp. at 8-9.

porting-out carrier to win back the customer if the customer contacts the carrier for the customer's pass code.[22]

The Commission similarly should take steps to facilitate the standardization of Customer Service Records ("CSRs"). As Verizon correctly notes, some carriers require a porting-in carrier to provide information from the CSR in order to complete the port process,[23] and thus any delay in obtaining CSR information also delays the porting process. Although some carriers provide real-time CSR information, not all carriers are able to do so. As such, the Joint CLEC Commenters agree with Qwest, Verizon and other commenters that CSRs should be returned promptly and without unreasonable delay.[24]

B. The Commission Should Take Additional Steps to Improve the Efficiency of the Porting Process

In their initial comments, some parties identified specific issues that the Commission could resolve to improve the efficiency of the porting process. For example, the Joint CLEC Commenters agree with Sprint Nextel and T-Mobile that an Old Service Provider should not disconnect a customer until after a port has been successfully completed[25] but should do so as quickly as possible after the port is complete in order to avoid double billing.[26] However, the Joint CLEC Commenters urge the Commission to be cautious in mandating a particular timeframe for the Old Service Provider to complete the disconnection in light of the manual verification that must take place to ensure that

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22 Comments of Nebraska PSC at 5.

23 *See, e.g.*, Comments of Verizon at 4.

24 Comments of Qwest Corporation at 9.

25 Comments of Sprint Nextel Corporation at 8.

26 Comments of T-Mobile USA, Inc. at 5.

the port has completed as well as the disconnect process itself. The Joint CLEC Commenters also support the use of a 10-digit trigger or functional equivalent to ensure that calls are routed properly during the porting process and the customer's service is not disrupted.[27] Requiring the use of the trigger will help prevent the customer frustration that would result if the customer could not receive certain incoming calls during the porting process and ensures that a customer's Old Service Provider does not intentionally disrupt the porting process in an inappropriate attempt to retain its soon-to-be former customers. Finally, the Joint CLEC Commenters believe the Commission should clarify that LECs may not require interconnection agreements as a precondition to porting.[28] Such a requirement unnecessarily delays a customer's ability to port its number to the carrier of its choosing and places new carriers at a competitive disadvantage by requiring them to expend time and financial resources negotiating interconnection agreements.

III. THE COMMISSION SHOULD CONDUCT A FULL AND INDEPENDENT REVIEW OF ALL NANC RECOMMENDATIONS

The Joint CLEC Commenters agree with Qwest that the Commission should fully review the report being developed by the NANC, including any minority opinions, before taking further action in this proceeding.[29] The importance of a full and independent review by the Commission of all recommendations by NANC cannot be underestimated, particularly in light of the process for reaching "consensus" in the LNPA WG[30] and the current minimal wireline CLEC membership on the NANC.

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27 Comments of Comcast Corporation at 8.

28 Comments of Sprint Nextel Corporation at 5.

29 Comments of Qwest Corporation at 1.

30 NANC Operating Manual, Version 2, Chapter 12 (modified September 9, 2006).

A recent example illustrates the importance of a full and independent review of NANC recommendations. The LNPA WG is currently investigating the feasibility of developing a new response – other than a Firm Order Confirmation ("FOC") or Reject – to an LSR requesting a simple port when the Old Service Provider determines that it is actually a non-simple LSR; this is intended to alert the New Service Provider that the port request submitted is non-simple, so the Old Service Provider will provide a FOC within 24 hours rather than 4 hours that would be required by the new NANC flows implementing the one-business-day simple port interval.[31] The LNPA WG rightly seeks to reach a consensus position on this and every issue, which can be extremely difficult given the diversity in the industry. However, the unusual standards for determining when consensus has been reached can result in a determination of consensus even when an entire industry segment, like the wireline CLECs, object.[32] With respect to this issue, the LNPA WG concluded that consensus had been reached despite staunch objection from the wireline CLECs participating in the LNPA WG.

Unfortunately, many are unfamiliar with the significance of a finding of "consensus," and thus may underestimate the significance and importance of any minority reports submitted with the LNPA WG report to NANC. NANC currently has minimal wireline CLEC membership, which further increases the likelihood that wireline CLEC objections will be underestimated and ignored. As such, it is possible that NANC recommendations to the Commission will not reflect the views of these CLECs, and thus

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31 *See* Attachment A, Position Paper of Birch Communications, Broadview, Cavalier, Cbeyond, DeltaCom, First Communications, Integra Communications, NuVox, PAETEC, RNK Communications, TDS Metrocom, TelePacific Communications, tw telecom, and XO Communications.

32 LNPA Working Group, July 27-28, 2009 Meeting, Draft Minutes.

should not be adopted without full and independent review of the Commission. The Joint CLEC Commenters will continue to work with the LNPA WG in order to explain the impact of proposals being considered on wireline CLECs, but the unique procedures used to formulate recommendations make full and independent review of NANC recommendations vitally important so that the FCC does not inadvertently rubber stamp recommendations that do not serve the public interest because they harm wireline CLECs unnecessarily.

IV. CONCLUSION

For the reasons set forth above, the Joint CLEC Commenters urge the Commission to take the steps outlined in these reply comments to improve the porting experience for consumers and facilitate further standardization and automation of port processing.

Respectfully submitted,

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Charles C. Hunter
Executive Vice President & General Counsel
Broadview Networks, Inc.

Brad Lerner
Counsel
Cavalier Telephone, LLC

Penny H. Bewick
Vice President-External Affairs
New Edge Networks, an EarthLink Company

Susan J. Berlin
VP, Senior Regulatory Counsel
NuVox

Marilyn H. Ash,
Director, Public Policy
U.S. TelePacific Corp. d/b/a TelePacific Communications

Lisa R. Youngers
Vice President, Federal Affairs
XO Communications, LLC

August 31, 2009

POSITION PAPER

Birch Communications, Broadview, Cavalier, Cbeyond, DeltaCom, First Communications, Integra Communications, NuVox, PAETEC, RNK Communications, TDS Metrocom, TelePacific Communications, tw telecom, and XO Communications (collectively, "We" or the "CLECs") are providing this position paper to facilitate a thoughtful and comprehensive discussion about the issues on the agenda for the LNPA-WG conference call scheduled for Tuesday, August 11, 2009, as well as to respectfully request the LNPA-WG to reconsider its conclusion that a consensus was reached during the meeting on July 27-28, 2009 regarding FOC response times.

We believe that it is inappropriate for the LNPA-WG to recommend the Revised Option 2a[33] regarding FOC response times to Non-Simple Ports because the Commission's recent *Porting Interval Order*[34]applies only to Simple Ports and does not require or direct the NANC to develop any process flows that would unnecessarily change the processing for Non-Simple Ports. The Federal Communications Commission's rule states: "all telecommunications carriers required by the Commission to port telephone numbers must complete a simple wireline-to-wireline or simple intermodal port request within one business day unless a longer period is requested by the new provider or by the customer."[35] There is no mention of changing the porting interval or carrier-to-carrier communications for Non-Simple Ports. This is particularly important since all of the goals for improving the porting process for Simple Ports can be accomplished without unnecessarily imposing significant costs and burdens for the Non-Simple Porting Process that are associated with Revised Option 2a.

FOC RESPONSE TIMES

We understand there may be investigation and further discussion into the feasibility of developing a new response (other than a FOC or Reject) to an LSR requesting a Simple Port when the Old SP determines that it is actually a Non-Simple LSR in order to alert the New SP that the FOC will be sent within 24 hours rather than 4 hours. However, we believe that the Old SP should be subject to the following requirements:

- If the New SP-requested due date is 1-2 Business Days after LSR receipt, for LSRs involving Simple Ports, as determined by the Old SP, the Old SP must

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[33] **Revised Option 2a**: If the New SP-requested due date is 1-2 Business Days after LSR receipt, the Firm Order Confirmation (FOC) or Reject (whichever is applicable) is due within 4 hours, provided the LSR is received by the Old SP by the 1pm Business Day cutoff time (local time in the predominant time zone of the NPAC Region where the number is being ported). If the New SP-requested due date is 3 or more business days after LSR receipt, the Firm Order Confirmation (FOC) or Reject (whichever is applicable) is due within 24 clock hours. In instances where the LSR indicates the port request is Non-Simple based on the current FCC definition and rule for a Simple Port, the Old SP must return a FOC or appropriate response within 24 clock hours.

[34] *In the Matter of Local Number Portability Porting Interval and Validation Requirements and Telephone Number Portability*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 07-244 and CC Docket No. 95-116, ¶ 19 (2009) ("*Porting Interval Order*" or "*2009 Porting NPRM*").

[35] 47 C.F.R. 52.35.

return a FOC or Reject (whichever is appropriate) within 4 hours of receiving the LSR.

- If the New SP-requested due date is 1-2 Business Days after LSR receipt, for LSRs involving Non-Simple Ports, as determined by the Old SP, the Old SP must return a FOC or Reject (whichever is appropriate) within 24 hours of receiving the LSR.

- If the New SP-requested due date is 3 or more Business Days after LSR receipt, for LSRs involving Simple or Non-Simple Ports, the Old SP must return a FOC or Reject (whichever is appropriate) within 24 hours of receiving the LSR.

These requirements would provide the New SP with all of the information it needs without imposing unnecessary costs upon the Old SP. Specifically,

- The New SP will receive a FOC or a Reject within 4 hours for all Simple Port Requests that request processing within the one-business-day interval.

- The New SP will receive a FOC or a Reject within 24 hours for all Non-Simple Port Requests and for Simple Port Requests that request a later due date.

- Within 4 hours, the New SP will know that an LSR it erroneously identified as involving a Simple Port actually involves a Non-Simple Port: The lack of response within 4 hours is the equivalent of a notification that the LSR involves a Non-Simple Port and that the FOC or Reject will be sent within 24 hours.

The focus and intent of the Commission's *Porting Interval Order* is to increase the efficiency and speed of Simple Ports. Requiring the Old SP to act on an LSR involving a Non-Simple Port within 4 hours merely because the New SP mistakenly believed it involved a Simple Port is unreasonable because it would impose significant costs and burdens on Old SPs that are not required by the Commission's rules and not necessary to improve the experience for the New SP's customers as the port itself would not be expedited. On the contrary, it introduces greater opportunities for errors during such expedited validation and processing for Non-Simple Ports that are inherently more complex and time-consuming to process and could jeopardize the Old SP's processing of other Simple Ports as the carrier is diverted to also handle responses to Non-Simple Ports during that 4-hour timeframe. To the extent that default notification to the New SP that it erroneously identified a Non-Simple Port Request as a Simple Port request is insufficient from the New SP's perspective, the New SP could verify the nature of the port request by requesting the CSR before submitting the LSR.

To the extent the preliminary conclusion that consensus was reached during the July 27-28 meeting is inconsistent with this approach of providing the New SP with all of the information it needs without unnecessarily imposing costs and burdens on the Old SP, we strongly object. In addition to our objections that Options 2a and 3a (even with the additive language) are substantively flawed since they impose tremendous costs and

burdens with no benefit to the customer whatsoever, we do not believe that a consensus finding accurately reflects the depth and breadth of the objections to those options, particularly since the objections are based upon well-founded concerns and thoughtful analysis.

For these reasons, we respectfully request the LNPA-WG reconsider the option we have set forth here and its preliminary conclusion that consensus was reached in support of Revised Option 2a. Although we understand consensus is not to be determined by a mechanical objective process, we believe there was considerable intense objection from both the ILEC and CLEC industry segments against the proposed options that required an Old SP to respond within 4 hours to *all* port requests submitted with a 1-2 or 1-3 business day due date (original Options 2a[36] and 3a,[37] respectively), regardless of whether those requests were actually Simple or Non-Simple. In fact, there was unanimous objection by the CLECs (constituting a consensus block) as well as objection by a considerable number of both large and small ILEC representatives to the original Option 3a. Additionally, there was almost unanimous objection by both the CLEC industry segment and large ILEC segment (as well as other small ILECs) to the original Option 2a. We believe that taking all these votes into consideration should have constituted a block of both Options 2a and 3a, rather than applying the mechanical process of pronouncing a consensus block only when a unanimous vote of one industry segment exists. Thus, even though neither the large ILECs nor the CLECs may have formed an outright unanimous block of Option 2a as individual industry segments, we believe that the fact that there was almost unanimous objection for it by essential segments of the wireline industry should have formed a consensus block for that option. Additionally, if the LNPA-WG moves forward to vote on the proposed revision to the flows, we object to eliminating the Old SP's ability to respond with a Reject for invalid due date if the port request is actually one for a Non-Simple Port, as determined by the Old SP.[38] In any event, we strongly believe the proposal described here would accomplish the goals of all industry segments without imposing the costs and burdens that have generated so much opposition.

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[36] **Original Option 2a:** If the New SP-requested due date is 1-2 business days after LSR receipt, the Firm Order Confirmation (FOC) or Reject (whichever is applicable) is due within in 4 hours. If the New SP-requested due date is 3 or more business days after LSR receipt, the Firm Order Confirmation (FOC) or Reject (whichever is applicable) is due within 24 clock hours.

[37] **Original Option 3a:** If the New SP-requested due date is 1-3 business days after LSR receipt, the Firm Order Confirmation (FOC) or Reject (whichever is applicable) is due within 4 hours. If the New SP-requested due date is 4 or more business days after LSR receipt, the Firm Order Confirmation (FOC) or Reject (whichever is applicable) is due within 24 clock hours.

[38] "NOTE: The current draft revision to the flows accommodates an option for the Old SP, after determining that a Simple Port request is really Non-Simple, to FOC the order within 4 hours with a different due date appropriate for a Non-Simple Port if the LSR contains sufficient data for a Non-Simple Port. If the LSR contains insufficient data, it can be rejected back to the New SP" (Excerpt from August 4, 2009 e-mail from co-chair Gary Sacra to the LNPA-WG).