

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Local Number Portability Porting Interval and) WC Docket No. 07-244
Validation Requirements)
)

To: The Commission

**COMMENTS OF
CENTURYLINK, IOWA TELECOMMUNICATIONS, AND WINDSTREAM**

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Dated: February 16, 2010

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CenturyLink, Iowa Telecommunications Services, Inc., and Windstream Communications, Inc. (collectively, the “mid-sized ILECs”), submit the following comments in response to the Commission’s Public Notice¹ seeking comment on the North American Numbering Council’s (“NANC”) Recommended Plan for Implementation of FCC Order 09-41.² These comments address significant, substantive issues raised by CenturyLink and Windstream in the NANC process leading to the adoption of the NANC Recommendation.³

¹ *Comment Sought on Proposals for Standardized Data Fields for Simple Port Requests*, WC Docket No. 07-244, Public Notice, DA 09-2569 (rel. Dec. 8, 2009) (the “Public Notice”).

² Letter from Betty Ann Kane, Chairman, North American Numbering Council, to Sharon E. Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket 07-244, Attach. 4 (filed Nov. 2, 2009); Letter from Betty Ann Kane, Chairman, North American Numbering Council, to Sharon E. Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket 07-244 (filed Dec. 2, 2009) (the “NANC Recommendation”).

³ The mid-sized ILECs’ concerns were dismissed, however, by several members of the Local Number Portability – Work Group and the NANC at large. Instead of addressing our concerns in the recommendation, the NANC simply included a letter from Windstream as a “minority view” attached to the Recommendation. NANC Recommendation at Attachment 3. The letter evinces (continued on next page)

Specifically the mid-sized ILECs' comments focus on portions of the NANC Recommendation that would (1) require a carrier to disclose customer service records without *any* validation that the customers at issue have granted permission for another carrier to access their records and (2) undermine Commission-approved safeguards that ensure the validity of port requests. While technical issues were dutifully considered, these portions of the NANC Recommendation failed to balance the need for expediency in processing legitimate port requests against the need to provide protections for sensitive customer data and the need to guard against invalid ports. The NANC Recommendation's proposals are contrary to existing law and Commission precedent that recognize the importance of protecting customer data and ensuring valid ports and, therefore, cannot be allowed to stand. At a minimum, a carrier must be able to require validation data permitted by the Commission's *Four Fields Order*⁴ (i.e., a customer's 10-digit telephone number, account number, 5-digit ZIP Code, and any pass code) before disclosing a customer service record and porting out a customer's telephone number.

To remedy deficiencies, the vast majority of the NANC Recommendation would *not* need to be altered. The Commission, instead, only would need to address portions of Sections 3.2 and 3.5.2 of the Recommendation⁵ and the porting fields proposals before the Commission.⁶ We

that the mid-sized ILECs' concerns were fully explained during the NANC process. *See* Attachment B.

⁴ *Telephone Number Requirements for IP-Enabled Service Providers, Local Number Portability Porting Interval and Validation Requirements, et al.*, WC Docket Nos. 07-243, 07-244, *et al.*, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, 22 FCC Rcd 19531, 19554 ¶ 48 (2007) ("*Four Fields Order*").

⁵ NANC Recommendation at 17-18, § 3.2; *id.* at 25, § 3.5.2.

⁶ Non-Consensus Recommendation at 2, Attachment 4-B. *See generally* Alternative Proposal.

have attached this text to our comments and have recommended redlines that would help protect sensitive customer data and guard against invalid ports.⁷

I. THE NANC RECOMMENDATION CONTRADICTS EXISTING LAW AND COMMISSION PRECEDENT THAT REQUIRE CARRIERS TO PROTECT SENSITIVE CUSTOMER DATA

The NANC Recommendation overlooks the very real problem that unscrupulous carriers may attempt to use customer service records requests to fish for customer data. Customer service records generally contain customer names, addresses, telephone numbers, as well as other sensitive and personally identifiable data, such as complete information about services and features to which the customer subscribes and the identities of other carriers (like preferred interexchange carriers (“PICs”)) that provide services to the customer.⁸ But pursuant to Sections 3.2 and 3.5.2 of the NANC Recommendation, a carrier would be required to disclose customer service records without *any* validation that the customers at issue have granted permission for another carrier to access their records.⁹ The NANC Recommendation’s requirement that carriers release customer service records is unequivocal, and contains no concomitant requirement that assures that customer authorization has been provided or that requesting carriers will use data only for legitimate purposes.¹⁰ This regime lacks concrete

⁷ See Attachment A.

⁸ Under the NANC Recommendation, a customer service record must contain any and all data required to complete the fields used to validate an outbound number port. NANC Recommendation at 18, § 3.2; *id.* at 25, § 3.5.2.

⁹ NANC Recommendation at 17-18, § 3.2; *id.* at 25, § 3.5.2.

¹⁰ NANC Recommendation at 17-18, § 3.2; *id.* at 25, § 3.5.2.

safeguards to protect sensitive customer information, and therefore invites abuse by unscrupulous carriers that can use customer service record requests to fish for customer data.

This concern is not merely theoretical. On multiple occasions, commenters have received very large numbers of customer service record requests from particular carriers, very few of which were followed by actual port requests (local service requests or “LSRs”). It is highly unlikely that such a large number of customers requested that these carriers commence the porting process, and then suddenly changed their minds before the LSRs were submitted. Instead, it appears these carriers were abusing the ability to request customer service records in order to fish for customer data or for other improper purposes unrelated to preparing number ports – a practice that the NANC Recommendation will enable to occur more often and without constraint in the future.

Because customer service records contain sensitive and protected personally identifiable information, carriers must be able to deploy reasonable safeguards to protect the data. Such safeguards must include, at a minimum, the ability to require a requesting carrier to complete the four fields for a simple port (i.e., produce the customer’s 10-digit telephone number, account number, 5-digit ZIP Code, and any pass code) before a customer service record is disclosed.¹¹ Requiring completion of these four fields is a reasonable measure to validate that a requesting carrier has received a customer’s authorization to access sensitive data.

¹¹ See *Four Fields Order*, 22 FCC Rcd at 19554 ¶ 48. In most cases, carriers also should be able to require customers’ affirmative written request for disclosure of customer service records that include CPNI. See 47 U.S.C. 222(c)(2) (“A telecommunications carrier shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer.”).

The NANC Recommendation’s failure to permit this reasonable step contradicts existing law and Commission precedent that recognize the need to protect sensitive customer data. By not considering sensitivity of customer service records, the NANC Recommendation can lead to violations of section 222 of the Act, which protects consumers’ privacy interests and affords special protection to Customer Proprietary Network Information (“CPNI”) in particular.¹² As the Commission has noted, section 222(a) “imposes a general duty on telecommunications carriers to protect the confidentiality of proprietary information – a duty owed to . . . customers.”¹³ Section 222(c) and the Commission’s implementing Rules further impose explicit restrictions on disclosure of CPNI, given CPNI “includes some highly-sensitive personal information.”¹⁴ In the porting context in particular, the Commission has “reject[ed] . . . various requests for disclosure of CPNI by former carriers, *without* customer approval, to new carriers to enable the new carriers

¹² See 47 U.S.C. § 222.

¹³ See 47 U.S.C. § 222(a) (“Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, . . . customers . . .”); *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information; IP-Enabled Services*, CC Docket No. 96-115; WC Docket No. 04-36, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 6927 at n.6 (2007) (same) (“2007 CPNI Order”).

¹⁴ See 47 U.S.C. § 222(c); 47 C.F.R. Part 64 Subpart U; 2007 CPNI Order at ¶ 5.

to initiate service.”¹⁵ Carriers, accordingly, must be allowed to enact reasonable safeguards to protect CPNI – and, indeed, the Commission’s Rules *obligate* carriers to do so.¹⁶

Such CPNI and other privacy concerns are directly implicated by the NANC Recommendation’s requirement for disclosure of customer service records. As noted above, customer service records generally contain customer names, addresses, and telephone numbers – all of which are proprietary information if the number is unlisted.¹⁷ Customer service records also generally include CPNI, such as complete information about the services and features to which the customer subscribes and the identities of other carriers providing services on the line (such as PICs).¹⁸ Thus, the provision of a customer service record as required by the NANC

¹⁵ *Implementation of the Telecommunications Act of 1996; Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information; Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, As Amended*, CC Docket Nos. 96-115 and 96-149, Order on Reconsideration and Petitions for Forbearance, 14 FCC Rcd 14409, 14454 ¶ 87 (1999) (“*CPNI Recon Order*”) (emphasis in original).

¹⁶ See 47 C.F.R. § 64.2010(a) (requiring that carriers “take reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI”).

¹⁷ While directory listing information is not CPNI, the Commission nonetheless treats it as proprietary if the number is unlisted. See 47 C.F.R. § 51.217(c)(3) (excluding unlisted numbers from LECs’ directory assistance obligations); *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended*, CC Docket No. 96-115; CC Docket No. 96-98; CC Docket No. 99-273, Third Report and Order, 14 FCC Rcd 15550, 15575 ¶ 41 (1999) (“[W]e conclude that section 222(e) does not require carriers to provide the names or addresses of subscribers with unlisted or unpublished numbers to independent publishers.”).

¹⁸ See 47 U.S.C. § 222(h) (defining CPNI as “information that relates to the . . . technical configuration [and] type . . . of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship”).

Recommendation in some cases will represent an unauthorized “disclosure” of CPNI, contrary to the protections established by Section 222 and Commission precedent.

Traditionally the Commission has been reluctant to require carriers to disclose CPNI to other carriers. The Communications Act expressly requires this disclosure only when a requesting carrier produces “affirmative written request by the customer,”¹⁹ and the Commission has been hesitant to compromise protections afforded by the statute.²⁰ Long-standing Commission precedent, which has addressed disclosure of CPNI with increasing caution,²¹ runs contrary to the NANC Recommendation – which would require frequent disclosure of CPNI, effectively in response to any and all carrier requests for the customer service record associated with a customer’s telephone number. It makes little sense for the NANC Recommendation to

¹⁹ 47 U.S.C. § 222(c)(2).

²⁰ In the porting context, the Commission requires that a carrier disclose CPNI to another carrier without a customer’s prior written approval only in very limited circumstances: (1) the disclosure requirement only pertains to ports implicated in the *provision of unbundled or resold local services*, (2) the Commission still requires a customer’s prior oral approval for disclosure, and (3) the Commission supersedes section 222(c)(2)’s written approval requirement only to the extent necessary for an ILEC to meet its section 251(c)(3) and (4) duties. *See Implementation of the Telecommunications Act of 1996; Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information; Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended*, Second Report and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 8061, 8126 ¶ 84 (1998). In that 1998 decision, the Commission apparently concluded, without explanation, that access to an ILEC’s operational support systems might necessitate disclosure of CPNI. *See id.* at ¶ 84 n.315 (citing to *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, 15763-64, 15766-67 ¶¶ 518, 521-23 (1996) (subsequent history omitted)).

²¹ In its *2007 CPNI Order* imposing significant nondisclosure duties on carriers, the Commission explained that “[t]he rules we are adopting are designed to curtail *all* forms of unauthorized disclosure of CPNI” and “[u]nauthorized disclosure of CPNI by any method invades the privacy of unsuspecting consumers and increases the risk of identity theft, harassment, stalking, and other threats to personal safety.” *See 2007 CPNI Order* at ¶ 46 (emphasis in original).

allow wholesale entities (or their agents, some of which reside outside of the United States and may not be telecommunications carriers in their own right) to access customer service records without at least the same level of authentication as that required for the customers themselves.²² Indeed, the Commission has cautioned that even where CPNI may be disclosed *without* prior customer approval, “carriers must take steps to safeguard such information,”²³ given “the original carrier retains all of the obligations imposed by section 222 for such information, no matter where the CPNI . . . ultimately ‘resides.’”²⁴ It would be anomalous for the Commission here to prohibit carriers from adopting meaningful CPNI safeguards when prior customer approval is required by section 222(c) and the Rules.

To help ensure sensitive customer data are not placed at risk, the Commission need only address portions of Sections 3.2 and 3.5.2 of the NANC Recommendation.²⁵ We have attached this text to our comments and have recommended redlines accordingly.²⁶ The vast majority of the NANC Recommendation and porting fields proposals would not need to be altered.

²² Even with respect to non-call detail CPNI, a carrier is obligated to “properly authenticate” a customer requesting such information. *See* 47 C.F.R. § 64.2010(a). And in any event, a carrier’s overarching obligation to “take reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI” does not distinguish between purported requests from customers and purported requests from other carriers. *See id.* In either case, there is a risk of unauthorized CPNI disclosure.

²³ *CPNI Recon Order*, 14 FCC Rcd at 14495 ¶ 167.

²⁴ *Id.* at 14495 ¶ 166.

²⁵ NANC Recommendation at 17-18, § 3.2; *id.* at 25, § 3.5.2.

²⁶ *See* Attachment A.

II. THE NANC RECOMMENDATION UNDERMINES COMMISSION-APPROVED PROTECTIONS THAT ENSURE THE VALIDITY OF PORT REQUESTS

The NANC Recommendation's requirements are also contrary to the Commission's *Four Fields Order*.²⁷ In recognition of carriers' need to guard against invalid ports, the Commission specified "four fields" – a customer's 10-digit telephone number, account number, 5-digit ZIP Code, and any pass code – that constitute the "minimum but reasonable amount of information to validate a customer request and perform a port."²⁸ The Commission here expressly acknowledged that it must ensure that the data fields used to validate port requests are sufficient to protect consumers.²⁹ In selecting the four fields, the Commission stated that the information submitted must be "sufficient to allow . . . customer verification to be established."³⁰ According to the Commission, "unless validation is performed correctly to assure that numbers being 'ported out' are in fact those for which requests have been submitted to the current provider, there is a significant risk that the incorrect customer's number may be ported, resulting in inadvertent disconnection of that subscriber."³¹

²⁷ See *Four Fields Order*, 22 FCC Rcd at 19554 ¶ 48.

²⁸ *Id.* at 19554 ¶ 42.

²⁹ *Id.* at 19557-58 ¶ 49.

³⁰ *Id.* at 19554 ¶ 43, quoting *Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, CC Docket No. 96-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 23697, 23711 ¶ 34 (2003).

³¹ *Local Number Portability Porting Interval and Validation Requirements, Telephone Number Portability, Embarq Petition for Waiver of Deadline*, WC Docket No. 07-244, CC Docket No. 95-116, Order, 23 FCC Rcd 2425, 2427 ¶ 7 (2008).

The NANC Recommendation, however, vitiates the protection established by the *Four Fields Order*. Under the NANC Recommendation, a customer service record must contain any and all data required to complete the fields used to validate an outbound number port.³² Thus, the NANC Recommendation effectively would give a requesting carrier “the answers to the test,” rather than require the requesting carrier to “do its homework” with end users.

The purported need offered in support of this NANC Recommendation provision was that some validation processes may cause an increase in the delay and complexity of porting for end users who want to change providers. The mid-sized ILECs’ collective experience, however, stands in stark contrast to such claims. Rather, it is our experience that such validation processes help curb attempts by parties to circumvent customer authorization processes without causing any discernable negative impact to the porting success rates of requesting carriers. In fact, it has been our experience that requesting carriers’ use of poorly trained agents – and, in the case of one particular company, agents of agents – to perform the port ordering functions is often the cause of negative impacts to their porting success rates. These facts reinforce the need for such validation procedures, particularly where agents (or agents of those agents) may not be telecommunications carriers themselves and/or may be located overseas.

Posing further problems, the NANC Recommendation and both of the porting fields proposals before the Commission would expressly prohibit the use of “carrier-initiated” passwords or personal identification numbers (“PINs”) to protect customer data in the CSR.³³

³² NANC Recommendation at 18, § 3.2; *id.* at 25, § 3.5.2.

³³ *See* NANC Recommendation at 18, § 3.2; *id.* at 25, § 3.5.2; Non-Consensus Recommendation at 2 (only allowing carriers to treat the “Personal Identifier (PID) field” as mandatory “when such password is requested and assigned by the end user”). *See generally* Alternative Proposal (failing to recognize a pass code field at all).

(And, in fact, the Alternative Proposal would not recognize any pass code field, customer-initiated or otherwise.)³⁴ Such measures unduly undercut the protections and convenience offered by carriers that automatically generate pass codes for customers, but provide those customers with notice of and ready ability to obtain or change their pass codes at any time. Neither the NANC nor the individual proponents of the porting fields proposals have explained how this restriction is consistent with the Commission's identification of pass codes as a validation field in the *Four Fields Order*, which makes no distinction between carrier-assigned and customer-assigned pass codes. To maintain consistency with the *Four Fields Order*, the Commission should take steps to ensure that no part of the NANC Recommendation unduly curtails carriers' reasonable use of pass codes for securing sensitive customer data.

The Commission need only address portions of Sections 3.2 and 3.5.2 of the Recommendation and the porting fields proposals to protect against invalid ports. Legitimacy of a port request can be confirmed by requiring requesting carriers to go to end users, rather than carriers, to collect the data needed to complete the validation fields approved by the *Four Fields Order*. To ensure this important safeguard is not undermined, Attachment A proposes redlines that modify the NANC Recommendations and porting fields proposals.

CONCLUSION

Portions of the NANC Recommendation and porting fields proposals conflict with existing law and policy that recognize the importance of protecting sensitive customer data and guarding against invalid ports. The Commission cannot impose the NANC's technical recommendation on carriers without addressing these legal and policy issues. In particular, the

³⁴ See generally Alternative Proposal.

Commission should ensure that, at a minimum, carriers can continue to require requesting carriers to produce four fields data before a customer service record is disclosed and a number is ported – a measure that provides at least some assurance that customers have authorized disclosure of their customer service records and porting of their telephone numbers.

Respectfully submitted,

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February 16, 2010

Attachment A: Suggested Revisions to the NANC Recommendation and Porting Fields Proposals

(1) NANC Recommendation

(Attachment 1 to the NANC Letter, filed 12/02/09)

3.2. Recommended Revised NANC LNP Provisioning Flows

....

Key recommendations contained in this flow include:

The Old Local Service Provider cannot require a physical copy of the end user authorization to be provided before processing the ~~Customer Service Record (CSR) or the~~ port request.

The Old Service Provider shall not require the New SP to have previously obtained a CSR before they will accept an LSR from the New Service Provider. For those New Service Providers that choose not to obtain a CSR, they understand that there is heightened risk that their LSR may not be complete and accurate. This is not intended to preclude those providers who provide an ordering Graphical User Interface (GUI) from including a step involving a real-time CSR pull within that process, as long as an alternate ordering process is available that does not require a CSR being pulled.

CSRs, if requested and available, must be returned within 24 clock hours, unless otherwise negotiated between Service Providers, excluding weekends and Old Service Provider holidays.

~~Any of the End User validation fields required by the Old Service Provider on an incoming LSR must be available on the CSR, excluding End User requested and assigned password/PIN.~~

~~Only~~ *Each of the validation fields permitted by the Commission's Four Fields Order (i.e., a customer's 10-digit telephone number, account number, 5-digit zip code, and, if applicable, Passwords/PINs requested and assigned by either the End User or the Service Provider) may be utilized as an End User validation field on an incoming CSR or LSR by the Old Network Service Provider/Old Local Service Provider. Any Service Provider assigned password/PIN may not be utilized as a requirement in order to obtain a CSR.*

....

3.5.2. Recommended Customer Service Record (CSR) Requirements

....

- The Old Local Service Provider cannot require a physical copy of the end user authorization to be provided before processing the ~~Customer Service Record (CSR) or the~~ port request.

- The Old Service Provider shall not require the New SP to have previously obtained a CSR before they will accept an LSR from the New Service Provider. For those New Service Providers that choose not to obtain a CSR, they understand that there is heightened risk that their LSR may not be complete and accurate. This is not intended to preclude those providers who provide an ordering Graphical User Interface (GUI) from including a step involving a real-time CSR pull within that process, as long as an alternate ordering process is available that does not require a CSR being pulled.
- CSRs, if requested and available, must be returned within 24 clock hours, unless otherwise negotiated between Service Providers, excluding weekends and Old Service Provider holidays.
- ~~Any of the End User validation fields required by the Old Service Provider on an incoming LSR must be available on the CSR, excluding End User requested and assigned password/PIN.~~
- ~~Only p~~*Each of the validation fields permitted by the Commission's Four Fields Order (i.e., a customer's 10- digit telephone number, account number, 5-digit zip code, and, if applicable, Passwords/PINs requested and assigned by either the End User or the Service Provider) may be utilized as an End User validation field on an incoming CSR or LSR by the Old Network Service Provider/Old Local Service Provider. Any Service Provider assigned password/PIN may not be utilized as a requirement in order to obtain a CSR.*

....

(2) NANC Non-Consensus Recommendation

(Attachment 4 to the NANC Letter, filed 12/02/09)

3.5.1 Standard Local Service Request (LSR) Data Fields

....

Fields identified in the LSOG as “Optional” may be utilized by the New Service Provider to provide additional information relative to a port; ~~however, they may not be “Required” under any circumstances (excluding the Personal Identifier (PID) field, which may be required for end user validation purposes based on FCC 07-188, only when such password is requested and assigned by the end user) and will not be edited for other than the appropriate data characteristics (e.g. 10 character alphanumeric, 5 character numeric, 17 character alphabetical) and any field specific Valid Values.~~

....

Attachment 4-B

The NANC Non-Consensus Recommendation matrix should be modified as follows:

- *A new row should be added for “Pass Code” (regardless of whether the pass code is assigned by the Service Provider or end user).*
- *The cell that defines the Standard Data Set for the Pass Code should be populated with an “O” (to clarify that this field is Optional for the Old Service Provider, but required for a New Service Provider if the Old Service Provider opts to use it).*
- *The cell that defines the Application Form for the Pass Code should be populated with “LSR Form.”*
- *The final cell for the Pass Code should be populated with “V” (to indicate that the data are used to help ensure the request is Validated).*

(3) Alternative Proposal

(NCTA, Comcast, and Cox Letter, filed 11/19/09)

If revised pursuant to the Alternative Proposal, Attachment 4-B of the NANC Non-Consensus Recommendation should be further modified as proposed above.

Attachment B:

Windstream Letter to NANC (10/14/2009)

Windstream Communications, Inc.
202 Graham Street
Harrison, AR 72601

Tana Henson
Staff Manager – Service Center



October 14, 2009

By Electronic Mail (BAKane@psc.dc.gov)
Honorable Betty Ann Kane
Chair, North American Numbering Council
Public Service Commission of the District of Columbia
1333 H Street, N.W., West Tower 7th Floor
Washington, DC 20005

Re: Recommended Plan for Implementation of FCC Order 09-41

Dear Chair Kane,

By order, the Federal Communications Commission ("FCC") charged this industry group with the tasks of addressing how a business day should be construed for purposes of the porting interval and generally defining a simple port. The proposed recommendation, while acceptable in most of its provisions, exceeds the FCC's instructions in several respects and includes additional provisions that conflict with existing law and/or practice and that otherwise circumvent reasonable customer protections. I participated in the Working Group and made it clear in discussions at that level that Windstream does not support the specific aspects of the recommendation that I describe below. We have contacted the Chair of the Working Group regarding our concerns about the portions of the recommendation discussed in this letter and also are requesting that a copy of this letter be included in the recommendation provided to the FCC on these matters. As I will address, the Council should not endorse or adopt the recommendation in its entirety as proposed by the LNP Working Group and must make several changes to several portions of the recommendation to ensure that the recommendation is consistent with law and sound public policy.

First, under Section 3.2, the recommendation includes a provision that the old local service provider cannot require a physical copy of the end user's authorization to be provided before processing a customer service record. This part of the recommendation directly contradicts Section 222 of the Act. Section 222 and the Commission's rules expressly prohibit the disclosure of CPNI except in limited circumstances. Of course, consumers may request the disclosure of such information, but Section 222(c)(2) expressly requires **an "affirmative written request"** by the customer." Although Section 64.1120(a)(2) of the Commission's rules provides that actual submission of the customer's authorization is not required prior to a port request, there is no similar provision in the law for access to CPNI itself. It has been Windstream's experience that some requesting providers attempt to avoid obtaining verified authorization from end users until the time that service is installed and well after the time that

they have submitted port requests or attempted to access customers' CPNI through Windstream's system. Specifically, local service providers must be allowed to enact reasonable safeguards to protect CPNI as required by law and to ensure that requesting carriers have obtained the written authorization of a customer prior to accessing that customer's CPNI, as required under Section 222 of the Act. Service providers have an affirmative duty to safeguard CPNI, and Section 3.2 of the recommendation as drafted is counter to that goal.

Second, also under Section 3.2, the recommendation includes language stating that all information required to be provided by new service providers for an LSR must be made available by the old service provider on the CSR with the exception of any end user requested passcodes. This recommendation should be rejected. It is inconsistent with the FCC's rules and LNP Four Fields Ruling and also establishes bad policy that precludes reasonable validation of customer information. For example, this portion of the recommendation would have the effect of requiring an old service provider to simply give the requesting provider the customer's account number and any company-assigned passcode in order for the requesting provider to fill out an LSR. In the particular case of an account number, that term is defined by the FCC in Section 64.2003(a) separately from CPNI and does not constitute CPNI. While an old service provider is required under Section 222 of the Act to make CPNI available to a requesting service provider when the requesting provider obtaining written authorization from the end user, there is no provision in the law requiring the old service provider to make all of an end user's account information, including the account number or company-assigned passcode, available to the requesting provider without written authorization. Indeed, such a requirement is wholly inconsistent with the validation processes outlined in the FCC's Four Fields Ruling which spoke to the affirmative benefits of using account numbers and passcodes to validate LSRs. In that ruling, the FCC agreed with competitive providers that four fields of information were necessary to validate simple ports. Those four fields are account number, passcodes, telephone numbers, and zip codes, and the FCC made no distinction between company assigned or customer requested passcodes. The recommendation being proposed here, however, renders that FCC ruling and any reasonable validation process virtually meaningless by seeking to require old service providers merely to "give away the answers to the test" without requesting providers having to "do their homework" with end users.

Third, in Section 3.2, the recommendation includes language proposing that no company-assigned passcode may be used to validate either an LSR or a CSR. For the reasons I explained above, this recommendation is contrary to the validation processes proposed by the FCC in its Four Fields Order and also the customer authorization safeguards in Section 222 of the Act. While Windstream recognizes that the FCC's Four Fields Order applies on its face to fields required for validating simple ports, those fields were deemed reasonable by the FCC (and the competitive carriers that suggested them) and are reasonable fields for validating that a requesting carrier has obtained the required customer authorization for accessing CPNI.

Fourth, similar language is set forth in Section 3.5.3 of the recommendation. The same language in that section should be rejected for the same reasons I have just discussed pertaining to Section 3.2.

Windstream understands that the purported need offered in support of the provisions set out above was that such validation processes caused an increase in the delay and complexity of porting for end users who want to change providers. Despite such assertions that such validation processes hinder the porting process, Windstream's data provide no support for such claims. Rather, Windstream's experience is that such validation processes help curb attempts by parties to circumvent customer authorization processes without causing any discernable negative impact to the porting success rates of requesting carriers. In fact, what has been shown to negatively impact porting success rates is a company's use of agents - and in the case of one particular company, agents of agents - to perform the port ordering functions. Windstream believes these facts reinforce the need for such validation procedures, particularly where the agents may not be telecommunications carriers themselves.

The recommendation as currently drafted includes portions in Sections 3.2 and 3.5.3 that seek to undermine legitimate and reasonable validation processes. In this respect, not all portions of the recommendation are consistent with the law or established practice as I explained. Those portions of the recommendation could enable wholesale entities (or their agents, who in many cases are outside the United States) to access accounts and CPNI without the same level of scrutiny as required for the end users themselves to access their own accounts and CPNI in the retail context. Before these portions of the recommendation are endorsed by the NANC and submitted to the FCC, they should be referred back to the Working Group for further consideration or deleted altogether.

Windstream appreciates the Council's consideration of these matters.

Sincerely,



Tana Henson

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