Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter 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 CHARTER COMMUNICATIONS, INC.

Charter Communications, Inc. ("Charter") respectfully submits these reply comments in response to the Commission's December 8, 2009 Public Notice.[1] In its initial comments, Charter explained that it strongly supports the Comcast-Cox-NCTA proposal on the proposed list of required LSR data fields[2] with two modifications – specifically, Charter sought retention of the TEL NO (INIT) field and elimination of the AN (Account Number) field. After extensive discussions with other parties in this docket, Charter now believes that it is unnecessary to retain the TEL NO (INIT) field, as other means of identifying contact information will be preserved under the Comcast-Cox-NCTA proposal. However, as explained below, the AN (Account Number) field remains highly problematic, as it causes delay and provides opportunities for improper retention marketing. At the same time, no commenter has provided any grounds to

[1] Public Notice, Comment Sought on Proposals for Standardized Data Fields for Simple Port Requests, WC Docket No. 07-244, DA 09-2569 (Dec. 8, 2009) ("Public Notice").
[2] *See* Letter from Cindy Sheehen, Senior Director, National Customer Activation & Repair, Comcast Corporation, Jose Jimenez, Executive Director, Regulatory Affairs-Policy, Cox Communications, Inc., Jerome F. Candelaria, NANC Representative, NCTA, to Sharon E. Gillett, Chief, Wireline Competition Bureau, Federal Communication Commission, WC Docket No. 07-244, CC Docket No. 95-116 (Nov. 19, 2009).

show that this field is part of "the minimum amount of information needed to complete a port."[3] Thus Charter supports the Comcast-Cox-NCTA proposal, with the elimination of the AN (Account Number) field.

Finally, Charter opposes some commenters' call for the Commission to mandate compliance with NANC recommendations that go beyond the fields required to complete a simple port.[4] Specifically, Charter objects strongly to NANC's recommendation that number port orders made in conjunction with directory listing changes should be excluded from the definition of simple ports. That recommendation conflicts with governing law on the definition of simple ports, and, for many number ports, would allow significant delay and/or additional charges by porting-out carriers, which have an incentive to slow and hinder their loss of a customer. The Commission thus should not mandate compliance with NANC's recommendations and should make clear that ports made in conjunction with directory listing changes remain simple ports that must be processed within one business day.

I. THE ACCOUNT NUMBER FIELD IS ANTICOMPETITIVE, AND NO COMMENTER HAS SHOWN THAT IT IS "NEEDED TO COMPLETE A PORT"

As Charter discussed in its initial comments, although Charter agrees with virtually all of the Comcast-Cox-NCTA proposal, based on its market experiences, Charter believes that the AN (Account Number) field should also be eliminated. This information is superfluous, as a telephone number and zip code are all that is needed to identify the appropriate account.[5] The

[3] Public Notice at 2.
[4] *See* Joint Comments of Sprint Nextel Corporation, T-Mobile USA, Inc., Verizon, Verizon Wireless, Qwest Corporation, CTIA - The Wireless Association®, and U.S. Cellular Corporation at 1 (Feb. 16, 2010).
[5] *See* Vonage Comments at 8 (Aug. 3, 2009); Level 3 Reply Comments at 3-6 (Aug. 31, 2009).

account number thus cannot be part of "the minimum amount of information needed to complete a port."[6]

As Charter explained in its opening comments, this field is also anticompetitive. Because many customers do not have the account number of their old provider readily available, the customer may provide the wrong information, leading to errors, or may be forced to contact the old service provider in order to obtain the account number. Such contact often leads to the old provider engaging in improper retention marketing, rather than performing its "neutral role in the execution process."[7] At best, this leads to significant delays.[8] Indeed, in Charter's experience, ports often take at least 48 hours longer to complete when the porting-out provider requires an account number. This kind of anticompetitive conduct should not be facilitated by allowing use of a mandatory account number field.

Comments arguing in support of the AN (Account Number) field are unpersuasive. Some commenters place emphasis on the fact that the account number field was one of the four approved by the Commission for validating simple ports.[9] However, this rulemaking expressly reopened the question of what fields should be required to validate and complete simple ports.[10] As Charter has explained (in accord with multiple commenters), experience since the

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[6] Public Notice at 2.
[7] *Verizon California, Inc. v. FCC*, 555 F.3d 270, 274 (D.C. Cir. 2009).
[8] *Accord* Vonage Comments at 8 (Aug. 3, 2009).
[9] *See, e.g.*, ATIS Comments at 11 (Feb. 16, 2010) (relying on the fact that account number was approved by the Commission as a validation field in *Telephone Number Requirements for IP-Enabled Services Providers*, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, 22 FCC Rcd 19531, 19557, ¶ 48 (2007) ("*Four Fields Order*")); *see also* AT&T Reply Comments at 18-19 (Aug. 31, 2009).
[10] *See Local Number Portability Porting Interval and Validation Requirements*, Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6084, 6095, ¶ 19 & n.70 (2009) ("*One Business Day Order*").

Commission issued the *Four Fields Order* has shown that requiring account numbers leads to delays and is anticompetitive.[11] The Commission thus can and should eliminate this field.[12]

Some commenters also argue that the AN (Account Number) field is "necessary" to reduce errors in the porting process.[13] To be clear, these commenters do not argue that the account number is "necessary" in the sense that the information is needed to complete a port; rather, they argue only that the customer account number is helpful in confirming information already provided in other fields. In AT&T's words, the account number "can provide excellent validation that there hasn't been an inputting error – *i.e.*, transposing telephone number digits" in the PORTED NBR field.[14] While redundant information like account number may be helpful in this respect, such information is by definition not part of "the minimum amount of information needed to complete a port."[15]

Moreover, parties claiming that the absence of an account number field will lead to porting errors have made only conclusory assertions to that effect; no party has provided any evidence whatsoever to support this claim. And in Charter's experience, the claim is wholly unfounded. Of Charter's more than 450 porting partners, only 13 providers even require an account number to port a number. Charter has not experienced any greater error rates with ports that do not require account numbers than with those that do. At the same time, as mentioned, Charter has experienced real, measureable delays in ports that require account numbers.

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[11] *See supra* note 5 (citing comments seeking elimination of the account number field).
[12] *See, e.g.*, *Nuclear Energy Inst., Inc. v. EPA*, 373 F.3d 1251, 1296 (D.C. Cir. 2004) ("An agency is free to discard precedents or practices it no longer believes correct" so long as it "suppl[ies] a reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored.") (citations and internal quotation marks omitted).
[13] *See, e.g.*, ATIS Comments at 11 (Feb. 16, 2010); AT&T Reply Comments at 18-19 (Aug. 31, 2009).
[14] AT&T Reply Comments at 18 (Aug. 31, 2009).
[15] Public Notice at 2.

Finally, some parties have stated that further reducing the number of required fields leads to greater costs in altering legacy systems.[16] To begin with, it is wholly unclear that removing one additional field from *some* providers' legacy systems would add significant incremental costs. More importantly, no party has provided any evidence or quantification of such costs.

In sum, there are demonstrated adverse consequences to allowing a mandatory account number field, and the arguments on the other side rest entirely on conclusory assertions lacking evidentiary support. In such circumstances, the only reasonable conclusion is that the AN (Account Number) field should be eliminated from the list of mandatory fields.

II. THE COMMISSION SHOULD NOT MANDATE COMPLIANCE WITH NANC RECOMMENDATIONS AND SHOULD MAKE CLEAR THAT SIMPLE NUMBER PORT ORDERS MADE IN CONJUNCTION WITH DIRECTORY LISTING CHANGES REMAIN SIMPLE PORTS

Charter opposes some commenters' call for the Commission to mandate compliance with other NANC recommendations beyond the fields required to complete a simple port.[17] To begin with, these comments fall outside the scope of the Public Notice, which sought comment only on "what fields are necessary in order to complete simple ports . . . within the one business day interval."[18] More importantly, Charter objects strongly to NANC's recommendation regarding number port orders made in conjunction with directory listing changes. In Attachment 4-A to NANC's December 2 filing, NANC recommends that "Directory listings must be retained or deleted for orders involving directory listings in order to be considered for simple port processing. Orders involving change(s) to directory listing(s) will not be considered for simple

[16] AT&T Comments at 5 (Feb. 16, 2010).
[17] *See* Joint Comments of Sprint Nextel Corporation, T-Mobile USA, Inc., Verizon, Verizon Wireless, Qwest Corporation, CTIA - The Wireless Association®, and U.S. Cellular Corporation at 1 (Feb. 16, 2010).
[18] Public Notice at 1.

port processing."[19] That recommendation – which would cause significant delay and/or raise costs for many number ports – conflicts with governing law.

Charter presently orders directory listing changes in conjunction with number ports in many cases. Like other competitive carriers, Charter does not publish telephone directories but instead provides directory listing information to incumbent carriers for publishing in their directories. When Charter ports a number from an incumbent carrier, Charter generally addresses any changes in the customer's directory listing at the same time, ordering the directory listing change in conjunction with the number port on the same LSR. Thus, for example, if a customer has moved or would like to remove a middle initial from his or her directory listing, Charter can accomplish the change at the same time it orders the number port from the incumbent carrier. Such changes occur in a majority of Charter's number ports.

If ports with directory listing changes were not considered simple ports, they would not be subject to the one-business-day deadline – indeed, they would be subject to no deadline whatsoever. As the Commission recognized in adopting the one-business-day deadline, "Delays in porting cost consumers time and money and limit consumer choice and competition because when consumers get frustrated with slow porting, they often abandon efforts to switch providers."[20] Excluding ports with directory listing changes from the one-business-day deadline would, in a large number of cases, undermine the Commission's efforts "to enable customers to port their numbers in a timely fashion and to enhance competition."[21]

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[19] *See* 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, Attachs. 4-A, 4-B, 4-C (filed Dec. 2, 2009).
[20] *One Business Day Order*, 24 FCC Rcd 6084, 6087, ¶ 6.
[21] *Id.* at 6089, ¶ 8.

It is thus unsurprising that NANC's recommendation on this issue conflicts with governing law. As the Commission has repeatedly made clear, "simple ports are those ports that: (1) do not involve unbundled network elements; (2) involve an account only for a single line; (3) do not include complex switch translations (*e.g.*, Centrex, ISDN, AIN services, remote call forwarding, or multiple services on the loop); and (4) do not include a reseller."[22] Ports made in conjunction with directory listing changes fall squarely within this definition, and there is no legal basis to exclude them from the category of simple ports.

To the extent NANC seeks to have the Commission change the definition of simple ports to exclude ports made in conjunction with directory listing changes – an argument NANC has not articulated – there is no basis for such a change. A number port made in conjunction with a change in directory listing is analytically identical to ordering a stand-alone number port on one LSR and a directory listing change on another LSR, generally referred to as a DSR (Directory Service Request). The mechanics involved in completing the number port are exactly the same in both cases, and in both cases the port should be completed within one business day. To be clear, Charter is not arguing that the directory listing change also must be completed within one business day. Just as if a separate LSR were used for the directory listing change, the change in directory listing ordered on the same LSR with the number port can be addressed by the porting-out carrier independently from processing the number port.

If NANC's recommendation on this issue were endorsed by the Commission, it would require Charter and other competitive providers either to endure significant delays from porting-out carriers, which have an incentive to slow their loss of a customer, or to prepare two LSRs –

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[22] *Four Fields Order*, 22 FCC Rcd 19531, 19556, ¶ 46 n.153 (*citing Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 23697, 23715, ¶ 45 n.112 (2003)).

one to port the number and another to change the directory listing. The latter process would almost certainly result in more errors, and because some carriers charge a fee for LSRs, it would increase the costs Charter must pay to port a number. Neither of these results would "enhance competition."[23]

CONCLUSION

For the foregoing reasons, Charter respectfully asks the Commission to adopt the Comcast-Cox-NCTA proposal, except that the AN (Account Number) field should be eliminated. The Commission should also reject calls to adopt NANC recommendations and should make clear that number ports ordered in conjunction with directory listing changes remain simple ports.

Respectfully submitted,

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[23] *One Business Day Order*, 24 FCC Rcd 6084, 6089, ¶ 8.