

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

In the Matter of)	
)	
Petition of Verizon and Verizon Wireless for Declaratory Ruling To Assess NPAC Database Intra-Provider Transaction Costs on the Requesting Provider)	WC Docket No. 11-95
)	
)	

COMMENTS OF XO COMMUNICATIONS, LLC

XO Communications, LLC (“XO”) hereby submits these comments in opposition to Verizon’s Petition for Declaratory Ruling filed in the above-captioned proceeding (“Petition”),¹ which requests that the Commission change the current allocation methodology for costs associated with the regional Number Portability Administration Center (“NPAC”) databases. As an initial matter, the Commission should dismiss the Petition as procedurally defective because Verizon has impermissibly requested a change in Commission rules, not a declaratory ruling regarding a controversy or uncertainty over the Commission’s current rules. The current allocation methodology, adopted in 1998, is neither controversial nor misunderstood in the industry. Verizon merely contests its continued use as a way of avoiding paying its equitable share of industry costs.

Verizon and many wireline ILECs have an inherent advantage in using and accessing numbering resources because they have large blocks of NPA-NXX codes that can be managed outside of the NPAC databases. Knowing that competitive carriers are dependent on the NPAC databases to manage their numbering resources, Verizon attempts in its Petition to characterize certain transactions as “elective” tasks unrelated to number portability or pooling, despite

¹ Petition of Verizon and Verizon Wireless for Declaratory Ruling to Assess NPAC Database Intra-Provider Transaction Costs on the Requesting Provider, WC 11-95 (filed May 20, 2011) (“Petition”).

contrary findings of the North American Numbering Council (“NANC”). While Verizon argues that the overall competitive environment justifies changing the current allocation methodology, there has been no significant change regarding the administration of number porting that has occurred since 1998. Therefore, XO urges the Commission to dismiss the Petition in its entirety.

I. WIRELINE ILECS CONTINUE TO POSSESS A COMPETITIVE ADVANTAGE IN ACCESSING AND MANAGING NUMBERING RESOURCES.

The Commission adopted the current allocation methodology for distributing the shared database costs after considering and rejecting adoption of usage-base charges. In doing so, the Commission determined that allocation of the shared costs among all telecommunications carriers based on revenue satisfies the competitive neutrality requirements of section 251(e)(2).²

Importantly, the Commission reasoned:

All telecommunications carriers will benefit from number portability. Number portability will remove barriers to entry into the market for local service and increase local competition. Number portability will also ameliorate number exhaust concerns by making possible number pooling.³

Specifically, the Commission noted that “[t]he *entire industry* benefits from the maintenance of reliable regional databases for providing number portability,”⁴ including uploading ported numbers and accurate data:

Thus, *all* carriers that port telephone numbers and *all* carriers that terminate calls to portability-capable NXXs depend on the timely uploading and downloading of information to and from the regional databases to ensure an accurate database and the proper routing of telephone calls. Furthermore, all telecommunications carriers that depend on the availability of telephone numbers will benefit from number portability because it allows subscribers to retain their telephone numbers when changing local service providers, and

² *Telephone Number Portability*, Third Report and Order, 13 FCC Rcd 11701, ¶ 113 (1998) (“*Third Report and Order*”).

³ *Id.* ¶ 114.

⁴ *Id.* ¶ 89 (emphasis added).

because it facilitates the conservation of telephone numbers through number pooling.⁵

While XO agrees with Verizon that “[m]uch has changed in the telecommunications industry in the 13 years since the *Third Report and Order* was issued,”⁶ none of those changes undercut the Commission’s rationale from 1998 or justify changing the allocation methodology. Despite the highly competitive telecommunications market, wireline ILECs still maintain a competitive advantage regarding number pooling and porting administration because the NPAC databases are limited to (1) numbers that have been ported from ILECs and from other competitive wireline and wireless providers (“competitive providers”), and (2) “thousands block” number pools, which were obtained by competitive providers.⁷ As XO noted in its opposition to BellSouth’s earlier “cost-causer” petition,⁸ “[f]or the largest incumbents, they retain the vast majority of numbers for wireline access - outside of the NPAC database - and rarely need new number blocks (especially as they are losing access lines).”⁹ Importantly, even though these carriers are able to maintain their number resources outside of the NPAC databases, they still equally benefit from number portability and pooling.

Verizon cites the increase in total NPAC transactions as if this trend should be curbed and this fact alone demands reconsideration of the cost allocation methodology.¹⁰ However, increased NPAC activity is congruent with a “vigorously competitive market” where customers

⁵ *Id.* ¶ 89 (emphasis added).

⁶ Petition at 3.

⁷ See Letter from Thomas Cohen, Kelley Drye and Warren, to Marlene H. Dortch, RM -1 1299, at 1 (dated April 19, 2007) (“XO ex parte”).

⁸ See BellSouth, *Petition/or Rulemaking to Change The Distribution Methodology for Shared Local Number Portability and Thousands-Block Number Pooling Costs*, Petition for Rulemaking, RM-11299 (Nov. 3, 2005) (“*Bell South Petition*”).

⁹ XO ex parte at 1.

¹⁰ Petition at 3.

readily take advantage of the opportunity to port numbers between service providers, as they choose among competitive service offerings, and pooling efforts continue in order to conserve numbers. Moreover, with the advent of many innovative services, there has been a general increase in demand for numbering resources over the past decade. Furthermore, while Verizon attempts to make much of what it believes are changes in providers' use of the NPAC database,¹¹ it draws the misguided conclusion that these transactions are somehow improper because they may be generated at the behest of a service provider, rather than a customer, despite the clear benefits to the customer and the industry.

II. INTRA-PROVIDER PORTS AND MODIFIES TO CURRENT DATA ARE NOT TRANSACTIONS “UNNECESSARY” TO NUMBER PORTING OR POOLING.

The underlying premise of Verizon's Petition appears to be its faulty assumption that any transaction that is not required of all service providers within the NPAC databases, and specifically of Verizon itself, is “unnecessary” to porting or pooling. Verizon argues that certain intra-provider ports and modifies to current data should be considered “elective” and assessed with separate usage-based charges. As discussed below, these transactions benefit customers and the industry as a whole and therefore should not be assessed outside of the normal cost allocation process.

Verizon relies heavily on the Commission's language permitting NPAC administrators to assess carriers with usage-based charges for requested elective services. However, while Verizon focuses on the words “discretionary” and “elective,” it fails to heed the examples provided by the Commission, namely that “discretionary services such as *audits and reports* ... [are] not necessary for the provision of number portability.”¹² One can hardly compare a request

¹¹ *Id.* at 2.

¹² *Third Report and Order* ¶ 92.

for audits or reports from the NPAC databases with transactions that actually utilize and update the databases to facilitate porting, pooling and routing of calls. The Commission did not indicate that NPAC administrators could (or should) charge a provider for each and every discretionary transaction simply because the transaction is generated on behalf of a single service provider or may occur outside of an individual porting or pooling event. Contrary to Verizon's assertion,¹³ any activity that maintains the accuracy of data, particularly routing data, in the NPAC databases is clearly related to number portability or pooling, even if such updates may be necessitated by internal changes in a provider's specific network configuration. In many cases, these modifications are necessary for the provision of number portability because record modifications ensure that the number remains portable in the future. Thus, there is no basis for Verizon's broad claim that what it terms "elective" transactions "have nothing to do with local number portability or number pooling."¹⁴

Some intra-provider modifies occur to update vendors for certain point codes in the NPAC (i.e., CNAM/CLASS/LIDB) as well as to update Location Routing Number ("LRN") data, which Verizon argues should be considered "elective" transactions subject to a usage charges.¹⁵ As the Commission is aware, every ported number must have an LRN assigned to it to ensure proper routing. If the LRN field in NPAC is incorrect, whether due to entry error or a change in the serving provider's network, a modification to the NPAC record must occur or else the calls to that telephone number will not be routed properly. This is the essence of number portability – the ability to change providers but still have the customer's calls route properly to its number. There should be no reasonable expectation the NPAC record data will remain static

¹³ Petition at 1.

¹⁴ *Id.* at 4-5.

¹⁵ *Id.* at 7.

once a pooled number is assigned or a number is ported to a new provider. Just because the information contained in the LRN or other data fields may be carrier-specific does not mean that the information is only relevant or beneficial to that carrier. Without the correct information for these fields, routing and customer service quality may be compromised, thus there can be no reasonable dispute that modifications to these fields are related to porting and pooling.

Furthermore, the Commission's own number utilization requirements sometimes necessitate intra-provider transactions in the NPAC database:¹⁶

XO, for instance, may not request an additional block of numbers until it is using 75% of its allocated numbers, and then it must consume those additional numbers within a six month period. XO, however, does not have anywhere near the same number of customers as the ILECs, and thus it has far fewer unassigned telephone numbers at each switch to allocate. This forces XO to manage unassigned numbers by porting them between switches -which is accomplished through transactions at NPAC's SMS. It should be noted that XO does not engage in vacant (or unassigned) number porting. It only ports when necessary to meet a customer request.

Although there is an option to petition a state commission for approval to obtain additional numbers, XO has found this to be a cumbersome process that may take weeks or months for approval and does not provide a timely resolution. Furthermore, if XO must return unassigned blocks that do not meet its six-month forecast, it must perform intra-provider port transactions to maintain a portion of numbers.

Verizon additionally cites the provision of "location porting" as a culprit of some of these "elective" transactions.¹⁷ While geographic porting is not required by the Commission's rules, there can be no question that these transactions are related to porting or that the customer is the beneficiary in such transactions. These geographic ports should be permitted by providers where

¹⁶ XO ex parte at 1.

¹⁷ Petition at 7.

requested and possible, and providers should not incur higher usage costs for these porting transactions simply because they remain the service provider.

Moreover, many record modifications occur during the process of the actual port since the NPAC databases are the means of communication between service providers during the porting process itself, for issues such as status updates and due date changes. These modifications clearly further the purposes of porting by ensuring that the process itself runs smoothly as scheduled by both providers involved in the port. And while XO does not dispute that carriers should take care to avoid or minimize data entry errors, realistically human errors will occur and there can be no argument that correction of erroneous data in the NPAC databases benefits the industry as a whole, not merely the individual service provider.

III. NO VIABLE ALTERNATIVE EXISTS FOR CARRIERS TO MANAGE ROUTING DATA FOR PORTED AND POOLED NUMBERS.

While Verizon states that “[t]here are a variety of alternatives to engaging in intra-service provider transactions and “modifies” and a number of ways to lessen their frequency,”¹⁸ the Petition does not actually detail any options that are available to carriers that primarily obtain numbering resources via porting or pooled number blocks. Verizon touts its prudent use of the LERG Routing Guide, rather than NPAC, to move NXX codes to different switches,¹⁹ without acknowledging that use of the LERG for this purpose is not possible for movement of numbers below the thousands block level, as is often the case for providers with smaller inventories of numbers. There is no incentive for these providers to abuse or overuse the NPAC databases. Rather, what may appear to be optional transactions to Verizon are often necessary for the service provider submitting the NPAC transactions.

¹⁸ *Id.* at 8.

¹⁹ *Id.*

While Verizon may have alternatives for performing the same tasks, providers utilizing ported and pooled numbers do not. It is important to note that Verizon does *not* say that such transactions are unnecessary overall since Verizon itself also performs such transactions. Instead, Verizon attempts to convince the Commission that alternatives to use of the NPAC exist, although it well knows that be untrue.

In the context of BellSouth's petition, the Commission requested certain data from the North American Numbering Council ("NANC"), including (1) identifying the quantity of numbers assigned to each industry segment, (2) identifying the quantity of ported numbers in the NPAC by industry segment, (3) identifying the quantity of pooled numbers in the NPAC by industry segment, and (4) researching viable alternatives to modifying five Signaling System 7 Destination Point Code (SS7 DPC) data fields in ported and pooled number records in the NPAC.²⁰ This analysis was conducted by the Local Number Portability Administration Working Group ("LNPA WG") of the NANC and a report was compiled and provided to the Commission after the NANC meeting in October 2007.

The NANC LNPA WG reported that wireline ILECs had just under 600M assigned numbers, whereas wireline CLECs had 312M assigned numbers and wireless carriers had 374M. The noteworthy disparity, however, is in the quantities of numbers administered in the NPAC. Wireline ILECs had 7.8M in ported numbers and 3.9M in pooled numbers, whereas wireline CLECs had 71.2M in ported and 67.7M in pooled numbers and wireless carriers had 93.6M in ported and 59.1M in pooled numbers. Therefore, wireline ILECs had a total of 11.7M, or a mere 2%, of their numbers administered in the NPAC. On the other hand, wireline CLECs and wireless carriers had 139M, or 45%, and 153M, or 41%, of their numbers in NPAC, respectively.

²⁰ NANC Report at 1-2. The five fields included CLASS, Line Information Database (LIDB), Calling Name (CNAM), Inter-switch Voice Messaging Message Waiting Indicator (ISVM MWI), and Wireless Short Message Service Center (WSMSC).

It is clear from this data that Verizon stands to gain at the expense of wireline CLECs and wireless carriers, if it succeeds in reducing its allocation of the industry-wide costs of the NPAC.

With regard to the fourth action item above, “after performing a detailed analysis collectively and individually within participant companies, the LNPA WG did not identify any existing reliable and viable alternatives to modifying the NPAC with regard to these data fields when a provider wishes to change the routing of these 5 services' SS7 Transaction Capabilities Application Part (TCAP) messages for a number that is in the NPAC database.”²¹ The Report went on to explain the necessity of these data fields to the routing of particular calls after the advent of number portability:

Prior to the implementation of Local Number Portability (LNP) in 1997, the non-call associated Signaling System 7 Transaction Capabilities Application Part (SS7 TCAP) messages that support these 5 services were routed based on the NPA-NXX of the target telephone number.... With the implementation of LNP in 1997, and the subsequent implementation of Telephone Number Pooling (TNP) in 2002, routing of these TCAP messages could no longer be relied upon at the NPA-NXX level. Individual 10-digit telephone numbers within the same NPA-NXX could now be served by different service providers, switches, and databases. As a result, DPC/SSN data for the routing of these TCAP messages in support of the 5 services were associated at the 10-digit level in ported and pooled number records in the Number Portability Administration Center (NPAC) and broadcast to subtending routing databases as numbers were ported or pooled.... As providers port in or pool in numbers, they typically associate the DPC of their appropriate ingress SS7 signaling gateway (e.g. for CLASS, ISVM MWI) or database provider's ingress gateway (e.g. for LIDB, CNAM) in their ported and pooled number records in the NPAC for other providers to route a TCAP message in support of one of these services.²²

The LNPA WG noted that “the only alternative identified as potentially viable to modifying these DPC/SSN data fields in the NPAC, when changes to the routing of these services' SS7 TCAP messages should become necessary, was redirection of the incoming TCAP

²¹ North American Numbering Council Report To The FCC Wireline Competition Bureau Staff, RM-11299, at 5 (dated October 10,2007) (“NANC Report”).

²² *Id.* at 5-6.

message at the old ingress gateway to the DPC of the new ingress gateway;” however, this alternative was rejected due to the overwhelmingly negative potential consequences, including “possible impacts to the quality of the service for affected customers.”²³

Verizon is keenly aware of the LNPA WG report since Mr. Gary Sacra, Verizon’s Declarant supporting its Petition, is the co-chair of the NANC LNPA WG. In fact, Mr. Sacra presented the LNPA WG’s findings to the full NANC, stating as follows:

Provider systems and networks do rely on the real time update of these TCAP messages, the destination point code data, that forwarded by the NPAC and the LNP infrastructure. As numbers are ported and pooled, in real time immediately that DPC data is made available to all subtending providers and their systems.

There is a real time need to have this data modified in NPAC and the LNP architecture does afford that. There is an administrative effort ongoing to maintain this rerouting infrastructure as the need takes place.

Again, keeping former networks in the routing path of these message could be a service affecting condition. For the same reasons we didn’t feel that rerouting of these particular SS7 signaling messages for WSMSC was an appropriate or viable alternative to actually going in if those providers choose to use those DPC values. It wasn’t a viable alternative to actually going in the NPAC and changing those values.²⁴

Inexplicably, Verizon blatantly disregards these findings and essentially expects this Commission to override those findings in favor of Verizon’s speculation that viable alternatives do somehow exist, despite the inability of the NANC LNPA WG, which is comprised of industry numbering experts, to discover even one.

²³ *Id.* at 6-7.

²⁴ North American Numbering Council, Meeting Transcript, October 10 2007, at 91-94.

CONCLUSION

For the forgoing reasons, XO respectfully requests that the Commission deny Verizon's Petition on both procedural and substantive grounds and declare that the current cost allocation methodology continues to meet the competitive neutrality requirements of section 251(e)(2).

Sincerely,

/s/ Teresa K. Gaugler
Heather B. Gold
Lisa R. Youngers
Teresa K. Gaugler
XO Communications
13865 Sunrise Valley Drive
Herndon, Virginia 20171

July 15, 2011