

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

COMMENTS OF CENTURYLINK

I. INTRODUCTION: CENTURYLINK SUPPORTS VERIZON’S PETITION FOR DECLARATORY RULING REGARDING NPAC TRANSACTION COST-ALLOCATIONS

CenturyLink supports Verizon’s Petition urging the Commission to declare that service provider costs not necessarily related to the Number Portability Administration Center’s (NPAC) administration of local number portability or number pooling are *not* shared industry costs. Rather such costs are clearly discretionary ones that should be borne by the service provider itself.¹ Verizon’s Petition is persuasive both in its legal analysis and fundamental logic.

When service providers avoid paying for the NPAC-transactional costs they cause (particularly when those costs are not directly associated with number porting or number pooling), and are allowed to rely on their competitors to support their enterprises, any semblance of a fair cost-recovery environment is lacking. The economic signals associated with such cost-recovery model are all wrong; and those burdened by the unwarranted cost burden are deprived of the right to earn an honest return on their investment.

¹ “Petition of Verizon and Verizon Wireless for Declaratory Ruling to Assess NPAC Database Intra-Provider Transaction Costs on the Requesting Provider,” filed May 20, 2011. Public comment was sought on the Petition via DA 11-973 in WC Docket No. 11-95 (“Verizon Petition” and referring to the filing parties as “Verizon”).

Such environment is antithetical to the Commission's desire to maintain competitive neutrality with regards to number porting and number pooling administrative costs. It is also at odds with Section 251 of the Telecommunications Act of 1996.

Since the question of cost allocations for discretionary costs can be resolved fairly easily within the existing revenue-based cost methodology, based on prior Commission determinations, the Commission should act expeditiously to declare discretionary costs (such as the Type 1 intra-port and "modify" transactions described by Verizon)² are not "shared costs" within the NPAC cost-recovery mechanism. Accordingly, service providers that generate such transactions must pay for them.

II. NPAC TRANSACTIONAL COSTS NOT ASSOCIATED WITH NUMBER PORTABILITY OR NUMBER PORTING ARE DISCRETIONARY AND APPROPRIATELY ALLOCATED TO INDIVIDUAL SERVICE PROVIDERS

CenturyLink remains of the position that a rulemaking is warranted for the larger question of whether the current revenue-based cost-allocation methodology continues to be compatible with competitive neutrality in the context of number portability and number porting costs. And we urge the Commission to initiate a rulemaking proceeding to address this matter as soon as it can. A cost-causer/cost-payor mechanism (along the lines of the SMS 800 structure noted by Verizon)³ is a more equitable and competitively-neutral model for an NPAC cost-recovery methodology than the model currently in existence.⁴

² Verizon Petition at 2, 6-9.

³ *Id.* at 9-10.

⁴ As Verizon points out, over five years ago BellSouth (now AT&T) filed a petition to initiate a rulemaking to re-examine appropriate cost distribution with respect to the administration of the regional NPAC databases. "Petition for Rulemaking to Change the Distribution Methodology for Shared Local Number Portability [("LNP")] and Thousands-Block Number Pooling Costs." *In the Matter of BellSouth Corporation Petition for Rulemaking to Change the Distribution*

Still we agree with Verizon that a formal rulemaking is not necessary for the Commission to mitigate the impact on industry participants of the current unfair and skewed economic cost-distribution methodology, at least with respect to costs not directly associated with number portability or pooling.⁵ Even under the current revenue-based cost methodology, service provider discretionary activities should not be underwritten by the industry but should be paid for by the service provider itself.

Because, as Verizon points out, the main driver of the continued-escalating costs associated with NPAC activity “is the frequent use of the NPAC databases by certain service providers to accomplish a wide variety of tasks unrelated to number portability or pooling, such as grooming their own networks and offering new services[,]”⁶ a declaration that such use generates discretionary costs (rather than shared ones) would allow for some level of economic and market discipline regarding the current cost-recovery practices. As Verizon succinctly puts it:

The cost of these transactions (which NPAC categorizes as LNP Type 1 intra-provider ports and ‘modifies’) . . . are not paid for by those providers that request

Methodology for Shared Local Number Portability and Thousands-Block Number Pooling Costs, Petition for Rulemaking, filed Nov. 3, 2005, RM-11299. See Public Notice, DA 05-3008, 20 FCC Rcd 18221 (2005). CenturyLink (then Qwest) filed comments in support of then-BellSouth’s Petition, because (as Verizon correctly notes) even in 2005, the costs of NPAC activity were spiraling and had ceased to reflect competitive neutrality, a fundamental objective of the Commission and of Congress with respect to the administration of number portability and pooling. As CenturyLink (Qwest) stated back in 2006: “[W]hen you compare a BOC’s actual usage with its cost burden under the current distribution methodology, the shared costs of LNP and number pooling are [not] being distributed in a manner calculated to advance competitive neutrality or equitable assessments. And the matter gets worse as a BOC’s revenues level off or decline.” Qwest Communications Support of BellSouth Petition in RM-11299, filed Jan. 5, 2006, at 4. And see Comments of Embarq (now CenturyLink) that also reference and support the 2005 BellSouth petition, *In the Matter of Local Number Portability Porting Interval and Validation Requirements*, WC Docket No. 07-244, filed Mar. 24, 2008, at 18-19.

⁵ Verizon Petition at 3.

⁶ *Id.* at 1.

and directly benefit from them; rather, other providers like Verizon largely foot the bill through the current revenue-based cost allocation system.⁷

The costs addressed by Verizon are not fairly categorized as “shared industry costs,”⁸ and the industry should *not* have to share in their coverage. Rather, these costs are cost-causer (service provider) specific costs incurred for the convenience, administrative ease, and sometimes competitive advancement of specific service providers.⁹ And, even without knowing the specifics of the confidential information Verizon provided to the Commission, CenturyLink can attest that, like Verizon, *its costs* regarding these transactions create a “substantial disparity” between what it pays and the number of discretionary transactions it generates.¹⁰

Even in the context of the existing revenue-based distribution methodology, the current environment that allows service providers to underwrite their enterprise costs with their competitors’ dollars does violence to the Commission’s laudable objective of “competitive

⁷ *Id.* at 2.

⁸ While the term “shared industry costs” is defined slightly differently by the Commission in an LNP and a number pooling context, the concept is generally the same. Shared costs are those “costs incurred by the industry as a whole, such as those incurred by the third-party administrator to build, operate, and maintain the databases needed to provide number portability.” *In the Matter of Telephone Number Portability*, CC Docket No. 95-116, RM-8535, *Third Report and Order*, 13 FCC Rcd 11701, 11731-32 ¶ 53, 11734 ¶ 61 (1998) (citation omitted) (number portability); *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200, *Report and Order and Further Notice of Proposed Rule Making*, 15 FCC Rcd 7574, 7662-63 ¶¶ 193-94, 7666 ¶ 202 (2000) (citation omitted) (number pooling).

⁹ Verizon Petition at 5, 7 (noting that service providers engage in elective transactions for “their own network upgrades and reorganizations,” as well as in some cases to offer their customers “location portability” (something not required under the current Commission rules but which would, in many instances, promote customer satisfaction)).

¹⁰ *Id.* at 5. Accordingly, like Verizon, this results in CenturyLink “paying . . . millions of dollars so that certain service providers can accomplish their own network upgrades and reorganizations via the NPAC database. And because their transactions are heavily subsidized by providers like [CenturyLink], service providers have every incentive to overuse the NPAC database, thus further accelerating the growth of total NPAC transactions for which all providers must pay.”

neutrality.”¹¹ As recognized by the Commission, even within such a cost recovery model, all industry participants should not have to share in the costs for *any* NPAC service that is discretionary, elective, and not necessary for the provision of local number portability or pooling.¹²

Moreover, as Verizon points out, since the NPAC can differentiate between “necessary” and “not necessary” activities, if the Commission declares the current situation (where all costs are being recovered through the revenue-based cost methodology structure) overbroad and corrects the current anomaly, the declaration would not embroil the industry in confusion or significant expense.¹³ Given that the kinds of costs Verizon (and CenturyLink) believe should be relegated to a cost-causer/cost-payer silo are readily-identifiable by NPAC, equilibrium could be brought to the current cost distribution methodology fairly painlessly.

For all the above reasons, CenturyLink urges the Commission to declare that *only* those transactions that are clearly shared industry costs directly associated with industry number portability and porting should be recovered, at least for now, through the existing revenue-based cost-recovery distribution methodology. All others should be borne by the service provider generating them. Verizon should be accorded the relief it requests and CenturyLink urges the

¹¹ In 1997-98, the Commission deemed it prudent “at this early stage . . . of [local] number portability” to utilize a revenue-based distribution model. *Third Report and Order*, 13 FCC Rcd at 11745 ¶ 88. At that time, it considered (but ultimately rejected) a usage-based distribution methodology. In making that decision, the Commission did not find that a usage-based methodology was antithetical to a competitively neutral model.

¹² *Id.* at 11746 ¶ 92 (“Notwithstanding that other costs of the regional databases will be allocated, we determine that regional database administrators may assess individual carriers and non-carrier third parties reasonable usage-based charges for discretionary services Because these services are elective to the parties requesting them, and not necessary for the provision of number portability, usage based charges should not have a [negative] competitive impact.”).

¹³ Verizon Petition at 6.

Commission to address the overall issue of number portability/number pooling cost recovery in a future formal rulemaking.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **COMMENTS OF CENTURYLINK** to be: 1) filed via ECFS with the Office of the Secretary of the FCC in WC Docket No. 11-95; 2) served via e-mail on Marvin Sacks, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission at marvin.sacks@fcc.gov; and 3) served via e-mail on the FCC's duplicating contractor, Best Copy & Printing, Inc. at fcc@bcpiweb.com.

/s/ Richard Grozier

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