

II. THE RECORD DEMONSTRATES THAT VERIZON'S PROPOSED RULE CHANGE WOULD BE ANTI-COMPETITIVE

As Comcast and others explained in their comments, Verizon's proposal to assess a charge on every Type 1 port ignores the historical circumstances that cause Comcast and other competitive voice providers to rely much more heavily on such ports to ensure proper routing of their customers' calls than the incumbent LECs.² Stated simply, because incumbent LECs obtained most of their telephone numbers before the Commission began implementing number conservation requirements, they are able to use the Local Exchange Routing Guide ("LERG") much more frequently to complete porting tasks that competitive LECs can only accomplish through use of the Number Portability Administration Center ("NPAC") database.³ Indeed, information derived from LERG6 shows that incumbent LECs and Commercial Mobile Radio Service ("CMRS") providers have a much higher proportion of codes that can be managed via the LERG.

Because of these differences in the way that incumbents and competitive LECs use the LERG and NPAC, adoption of Verizon's proposal would shift an unreasonable and disproportionate share of number portability administrative costs to competitive LECs due to historical factors outside their control while simultaneously reducing the remaining costs that are recovered from incumbent LECs and other service providers that are able to manage a larger

² COMPTTEL Comments at 2-3 (July 15, 2011; filed July 14, 2011) ("Competitive carriers, by the nature of their customer bases . . . have a higher percentage of their numbers that must be maintained via the NPAC databases in order to ensure proper routing."); XO Comments at 2 ("Wireline ILECs continue to possess a competitive advantage in accessing and managing numbering resources."). (Except as otherwise noted, all comments cited herein were filed in WC Docket No. 11-95 on July 15, 2011.)

³ *See, e.g.*, Comcast Comments at 7-10.

proportion of codes using the LERG. Further, Verizon's proposal would contradict the Commission's long-standing principle that local number portability ("LNP") cost recovery must not "disparately affect . . . competing service providers."⁴

III. SUPPORTERS OF VERIZON'S PETITION HAVE INACCURATELY PORTRAYED THE PORTING PROCESS AND ASPECTS OF VERIZON'S PROPOSAL

Supporters of Verizon's petition erroneously characterize Type 1 ports by competitive LECs as "optional" or "elective." To the contrary, as XO points out:

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 [to] be untrue.⁵

Both XO and COMPTTEL correctly highlight the fact that the industry's expert numbering body has confirmed that competitive LECs have no viable alternative to using the NPAC database.⁶ Specifically, the Local Number Portability Administration Working Group conducted a "detailed analysis" of the matter and "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."⁷

⁴ *Telephone Number Portability*, Third Report and Order, 13 FCC Rcd 11701, ¶ 53 (1998).

⁵ XO Comments at 8.

⁶ COMPTTEL Comments at 3-4; XO Comments at 8-10.

⁷ North American Numbering Council Report to the FCC Wireline Competition Bureau Staff, RM-11299, at 5 (October 10, 2007; filed October 16, 2007).

In addition, other supporters of Verizon wrongly assert that the NPAC mechanism for recovering LNP costs should be patterned after the system used to recover the costs of administering the SMS/800 database.⁸ This argument simply ignores the key differences between the two databases. All RespOrgs generally use the SMS/800 database in the same way and all are assessed a usage-based fee to obtain access to the database.⁹ Further, the costs of administering that database are recovered through usage-based charges. In contrast, as discussed above, under Verizon's proposal, Comcast and other competitive voice providers that are required to use the NPAC database to perform certain LNP management tasks would pay a usage-based assessment, whereas incumbent LECs typically could accomplish the same LNP management task through the LERG without incurring any charge. Moreover, Verizon's proposal would impose usage-based charges only on Type 1 transactions, while the remaining costs of administering the LNP regime would be shared among all carriers.

Finally, AT&T attempts to minimize the impact of Verizon's proposal on competitive LECs by asserting that the "per-transaction cost is falling."¹⁰ As Comcast has explained, such assertions simply cannot be verified with respect to Type 1 ports. NeuStar has never made public the cost structure of the NPAC or assigned common costs between the different types of ports. While North American Portability Management restructured the fees associated with porting in 2009, the restructured fee system does not set forth the differences in costs between Type 0, Type 1, and Type 2 transactions. Accordingly, if the Commission decided to consider

⁸ CenturyLink Comments at 2.

⁹ The usage charge varies based on the interface that the RespOrg selects to obtain access to the SMS/800 database.

¹⁰ AT&T Comments at 5.

Verizon's petition in the context of a comprehensive rulemaking proceeding, detailed information regarding the actual cost impact of implementing a usage-based charge for Type 1 ports would be required.

IV. ANY CHANGES TO THE EXISTING LNP ALLOCATION METHODOLOGY MAY ONLY BE ACCOMPLISHED THROUGH A FORMAL RULEMAKING PROCEEDING

As Comcast and others demonstrated in their initial comments, because Verizon's proposal would fundamentally alter the established mechanism for LNP cost recovery, consistent with the requirements of the Administrative Procedure Act, such a change may only be considered via a notice and comment rulemaking proceeding.¹¹ XO correctly notes that Verizon's petition is "procedurally defective because Verizon has impermissibly requested a change in Commission rules."¹² Thus, as COMPTTEL observes, "[t]he Commission . . . would need to initiate a rulemaking proceeding to accommodate Verizon's request."¹³

Moreover, any such rulemaking must be comprehensive in nature. Even AT&T, a company that "doesn't object to Verizon's petition because it seeks to use a cost-causer method for LNP Type 1 intra-provider ports and modifies," agrees with Comcast that "[a]ddressing the question of cost recovery on a piecemeal basis as Verizon proposes would be inappropriate for several reasons."¹⁴ As Comcast has noted, an appropriately comprehensive review would take into account the differences in the ways in which incumbent LECs and competitive LECs must

¹¹ See, e.g., Comcast Comments at 12-13.

¹² XO Comments at 1.

¹³ COMPTTEL Comments at 5.

¹⁴ AT&T Comments at 8.

use the NPAC database in order to avoid implementing changes that would shift a disproportionate share of number portability administrative costs to one segment of the industry.¹⁵

V. CONCLUSION

For the foregoing reasons, the Commission should deny Verizon's Petition for Declaratory Ruling.

Respectfully submitted,

A. Richard Metzger, Jr.
Emily J. H. Daniels
LAWLER, METZGER, KEENEY & LOGAN, LLC
2001 K Street, NW
Suite 802
Washington, DC 20006
(202) 777-7700

Attorneys for Comcast Corporation

/s/ Kathryn A. Zachem
Kathryn A. Zachem
Mary P. McManus
COMCAST CORPORATION
300 New Jersey Avenue, NW
Suite 700
Washington, DC 20001

Brian A. Rankin
Andrew D. Fisher
COMCAST CABLE COMMUNICATIONS, LLC
One Comcast Center, 50th Floor
Philadelphia, PA 19103

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¹⁵ Comcast Comments at 13.

Certificate of Service

I hereby certify that on this 15th day of August, 2011, true and correct copies of the foregoing Reply Comments of Comcast Corporation were mailed by electronic mail to:

Marvin Sacks
Wireline Competition Bureau, Pricing Policy Division
Federal Communications Commission
445 12th Street SW
Washington, DC 20554
marvin.sacks@fcc.gov

Best Copy and Printing, Inc. (BCPI)
445 12th Street SW, Room CY-B402
Washington, DC 20554
fcc@bcpiweb.com

/s/ Erica A. Carrales
Erica A. Carrales