

2001 DRAFTING REQUEST

Bill

Received: **01/24/2002**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Dan Schooff (608) 266-9967**

By/Representing: **Katie Plona**

This file may be shown to any legislator: **NO**

Drafter: **kunkemd**

May Contact:

Addl. Drafters:

Subject: **Public Util. - telco**

Extra Copies:

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Telephone number portability for wireless customers

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	kunkemd 01/24/2002	jdyer 01/25/2002	pgreensl 01/25/2002	_____	lrb_docadmin 01/25/2002		
/2	kunkemd 02/06/2002	jdyer 02/07/2002	jfrantze 02/07/2002	_____	lrb_docadmin 02/07/2002		
/3	kunkemd 02/18/2002	jdyer 02/18/2002	haugeca 02/18/2002	_____	lrb_docadmin 02/18/2002	lrb_docadmin 02/19/2002	

FE Sent For:

none required

<END>

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PA please email

Pre Topic:

"1/3" to

No specific pre topic given

Katie Plona

Topic:

Telephone number portability for wireless customers

in Rep Schooff's

Instructions:

See Attached

office

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/2	kunkemd 02/06/2002	jdyer 02/07/2002	jfrantze 02/07/2002	_____	lrb_docadmin 02/07/2002		

13 2/18 jld

ck 2-18-02 GF

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<END>

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Addl. Drafters:

Subject: Public Util. - telco

Extra Copies:

Submit via email: NO

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FE Sent For:

h 2/7 jld
2/7
Bill
2/7
 <END>

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For: Dan Schooff (608) 266-9967

By/Representing: Katie Plona

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May Contact:

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Extra Copies: RJM

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1?	kunkemd	1/25 jld	1/25 P8	1/25 P8 / JR			

FE Sent For:

<END>



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4772/1

MDK: ^....

jld

By MONDAY
11/28

D-NOTE

2001 BILL

Gen

- 1 AN ACT ...; relating to: provision of telephone number portability by wireless
- 2 telecommunications providers.

Analysis by the Legislative Reference Bureau

Under current federal law, with certain exceptions, telecommunications providers are required to provide number portability in the ~~one hundred~~ largest metropolitan statistical areas (MSAs) of the country. "Number portability" is defined as the ability of customers to retain existing telephone numbers when switching telecommunications providers. Milwaukee is the only area in Wisconsin that is in the ~~one hundred~~ largest MSAs. Current federal law also requires, with certain exceptions, a telecommunications provider to provide number portability in an area outside the ~~one hundred~~ largest MSAs within ~~6~~ months after another telecommunications provider requests number portability. ¹⁰⁰ ~~6~~ ^{six}

One of the exceptions to the above requirements applies to wireless telecommunications providers, which are referred to under federal and state law as commercial mobile radio service providers. Under current federal law, wireless telecommunications providers must begin providing number portability in the ~~one hundred~~ largest MSAs by November 22, 2002. After that date, a wireless telecommunications provider must provide number portability in an area outside the ~~one hundred~~ largest MSAs within the same ~~6~~ ^{six} month deadline described above.

Under this bill, a wireless telecommunications provider must begin providing number portability in all areas of the state on November 22, 2002. In addition,

BILL

number portability must be provided in a manner that does not impair the quality or reliability of telecommunications services.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

, as affected by 2001 Wisconsin Act 16,

1 SECTION 1. 196.202 (2) of the statutes is amended to read:

2 196.202 (2) SCOPE OF REGULATION. A commercial mobile radio service provider
3 is not subject to ch. 201 or this chapter, except as provided in sub. subs. (5) and (6),
4 and except that a commercial mobile radio service provider is subject to s. 196.218
5 (3) if the commission promulgates rules that designate commercial mobile radio
6 service providers as eligible to receive universal service funding under both the
7 federal and state universal service fund programs. If the commission promulgates
8 such rules, a commercial mobile radio service provider shall respond, subject to the
9 protection of the commercial mobile radio service provider's competitive
10 information, to all reasonable requests for information about its operations in this
11 state from the commission necessary to administer the universal service fund.

History: 1985 a. 297; 1987 a. 27; 1991 a. 39; 1993 a. 36, 496; 1997 a. 27, 140, 218; 1999 a. 32, 150; 2001 a. 16.

12 SECTION 2. 196.202 (6) of the statutes is created to read:

13 196.202 (6) NUMBER PORTABILITY. (a) In this subsection, "number portability"
14 means the ability of a customer of a commercial mobile radio service provider who
15 switches service to another telecommunications provider to retain the telephone
16 number that the customer used with that commercial mobile radio service provider.

17 (b) Each commercial mobile radio service provider shall provide number
18 portability in all areas of the state in a manner that does not impair the quality or
19 reliability of telecommunications services.

20 SECTION 3. Effective date.

BILL

1 (1) This act takes effect on November 22, 2002. ✓

2 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4772/1dn

MDK.....

JLD

Representative Schoof:

Please review this bill carefully to make sure that it achieves your intent. In particular, please note the following:

1. I made the deadline the same as the deadline under federal law for Milwaukee (i.e., November 22, 2002). I did so to avoid logical inconsistencies with the federal law. Is that okay?
2. Do you want to revise the bill to impose penalties on a wireless telecommunications provider that fails to comply with the bill? Because a wireless telecommunications provider is not a public utility, the general forfeitures of ch. 196, stats., do not apply. (See s. 196.66 (1), stats., which imposes a forfeiture of between \$25 and \$5,000 for a violation by a public utility that is not subject to a specific penalty.)
3. It could be argued that the bill is preempted under federal law. However, although federal law prohibits states from regulating wireless rates, states are allowed to regulate "other terms and conditions" of wireless service. See 47 USC s. 332 (c) (3) (A). A court might be asked to determine whether number portability is a term or condition that states can regulate. Please let me know if you want me to look further into this issue.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4772/1dn
MDK:jld:pg

January 25, 2002

Representative Schoof:

Please review this bill carefully to make sure that it achieves your intent. In particular, please note the following:

1. I made the deadline the same as the deadline under federal law for Milwaukee (i.e., November 22, 2002). I did so to avoid logical inconsistencies with the federal law. Is that okay?
2. Do you want to revise the bill to impose penalties on a wireless telecommunications provider that fails to comply with the bill? Because a wireless telecommunications provider is not a public utility, the general forfeitures of ch. 196, stats., do not apply. (See s. 196.66 (1), stats., which imposes a forfeiture of between \$25 and \$5,000 for a violation by a public utility that is not subject to a specific penalty.)
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Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Emery, Lynn

From: Emery, Lynn
Sent: Friday, January 25, 2002 2:38 PM
To: Rep.Schooff
Subject: LRB-4772/1 & 1dn (attached as requested)

Lynn Emery

Lynn Emery - Program Asst. (PH. 608-266-3561)
(E-Mail: lynn.emery@legis.state.wi.us) (FAX: 608-264-6948)

Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street - 5th Floor
Madison, WI 53703

1/25/2002



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4772/1 (7)
MDK:jld:pg

D-NOTE

2001 BILL

Handwritten notes in a box: *2/7 pm*

Handwritten notes in a box: *RM has been pur*

Regen

- 1 AN ACT to amend 196.202 (2); and to create 196.202 (6) of the statutes, relating
- 2 to: provision of telephone number portability by wireless telecommunications
- 3 providers.

Analysis by the Legislative Reference Bureau

Under current federal law, with certain exceptions, telecommunications providers are required to provide number portability in the 100 largest metropolitan statistical areas (MSAs) of the country. "Number portability" is defined as the ability of customers to retain existing telephone numbers when switching telecommunications providers. Milwaukee is the only area in Wisconsin that is in the 100 largest MSAs. Current federal law also requires, with certain exceptions, a telecommunications provider to provide number portability in an area outside the 100 largest MSAs within six months after another telecommunications provider requests number portability.

One of the exceptions to the above requirements applies to wireless telecommunications providers, which are referred to under federal and state law as commercial mobile radio service providers. Under current federal law, wireless telecommunications providers must begin providing number portability in the 100 largest MSAs by November 22, 2002. After that date, a wireless telecommunications provider must provide number portability in an area outside the 100 largest MSAs within the same six-month deadline described above.

Under this bill, a wireless telecommunications provider must begin providing number portability in all areas of the state on November 22, 2002. In addition,

24 ✓

24 ✓

BILL

number portability must be provided in a manner that does not impair the quality or reliability of telecommunications services.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 196.202 (2) of the statutes, as affected by 2001 Wisconsin Act 16,
2 is amended to read:

3 196.202 (2) **SCOPE OF REGULATION.** A commercial mobile radio service provider
4 is not subject to ch. 201 or this chapter, except as provided in ~~sub.~~ subs. (5) and (6),
5 and except that a commercial mobile radio service provider is subject to s. 196.218
6 (3) if the commission promulgates rules that designate commercial mobile radio
7 service providers as eligible to receive universal service funding under both the
8 federal and state universal service fund programs. If the commission promulgates
9 such rules, a commercial mobile radio service provider shall respond, subject to the
10 protection of the commercial mobile radio service provider's competitive
11 information, to all reasonable requests for information about its operations in this
12 state from the commission necessary to administer the universal service fund.

13 **SECTION 2.** 196.202 (6) of the statutes is created to read:

14 196.202 (6) **NUMBER PORTABILITY.** (a) In this subsection, "number portability"
15 means the ability of a customer of a commercial mobile radio service provider who
16 switches service to another telecommunications provider to retain the telephone
17 number that the customer used with that commercial mobile radio service provider.

18 (b) Each commercial mobile radio service provider shall provide number
19 portability in all areas of the state in a manner that does not impair the quality or
20 reliability of telecommunications services.

21 **SECTION 3. Effective date.**

BILL

1

(1) This act takes effect on November ~~14~~²⁴, 2002. ✓

2

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4772/2dn

MDK.....

↑
JG

Representative Schooff:

This version corrects the date for the federal deadline for number portability.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4772/2dn
MDK:jld:jf

February 7, 2002

Representative Schooff:

This version corrects the date for the federal deadline for number portability.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Basford, Sarah

From: Basford, Sarah
Sent: Monday, February 18, 2002 12:00 PM
To: Rep.Schooff
Subject: LRB -4772/2 (attached)



01-4772/2

Sarah Basford
Program Assistant
State of Wisconsin
Legislative Reference Bureau
PH: (608) 266-3561/FAX: (608) 264-6948
sarah.basford@legis.state.wi.us

Today by
3:30 pm

2001 BILL

PM
has
been
run

Reger

1 AN ACT to amend 196.202 (2); and to create 196.202 (6) of the statutes; relating
2 to: provision of telephone number portability by wireless telecommunications
3 providers.

at the same location

a **Analysis by the Legislative Reference Bureau**

Under current federal law, with certain exceptions, telecommunications providers are required to provide number portability in the 100 largest metropolitan statistical areas (MSAs) of the country. "Number portability" is defined as the ability of customers to retain existing telephone numbers when switching telecommunications providers. Milwaukee is the only area in Wisconsin that is in the 100 largest MSAs. Current federal law also requires, with certain exceptions, a telecommunications provider to provide number portability in an area outside the 100 largest MSAs within six months after another telecommunications provider requests number portability.

One of the exceptions to the above requirements applies to wireless telecommunications providers, which are referred to under federal and state law as commercial mobile radio service providers. Under current federal law, wireless telecommunications providers must begin providing number portability in the 100 largest MSAs by November 24, 2002. After that date, a wireless telecommunications provider must provide number portability in an area outside the 100 largest MSAs within the same six-month deadline described above.

Under this bill, a wireless telecommunications provider must begin providing number portability in all areas of the state on November 24, 2002. In addition,

plain

NO FE

The duty applies only if a customer of a wireless telecommunications provider switches to another telecommunications provider in the same area code.

BILL

number portability must be provided in a manner that does not impair the quality or reliability of telecommunications services.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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10 protection of the commercial mobile radio service provider's competitive
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12 state from the commission necessary to administer the universal service fund.

13 **SECTION 2.** 196.202 (6) of the statutes is created to read:

14 196.202 (6) NUMBER PORTABILITY. (a) In this subsection, "number portability"
15 means the ability of a [✓]customer of a commercial mobile radio service provider who
16 switches service to another telecommunications provider [↑]to retain the telephone
17 number ^s that the customer used with that commercial mobile radio service provider.

18 (b) Each commercial mobile radio service provider shall provide number
19 portability ~~(in all areas of the state)~~ ^{plain} in a manner that does not impair the quality or
20 reliability of telecommunications services.

21 **SECTION 3. Effective date.**

in the same area code ✓

Emery, Lynn

From: Plona, Katie
Sent: Tuesday, February 19, 2002 11:27 AM
To: LRB.Legal
Subject: Jacketing for Schooff

Can I please have LRB 4772 and LRB 4730 jacketed and sent over this afternoon please. 420 North

Thank you,

Katie Plona
Rep. Schooff's Office
6-9967

Source: All Sources > Federal Legal - U.S. > Federal Register **f**

Terms: 47 /5 52.31 ([Edit Search](#))

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65 FR 56578, *

FEDERAL REGISTER

Vol. 65, No. 182

Notices

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Public Information Collections Approved by Office of Management and Budget

65 FR 56578

DATE: Tuesday, September 19, 2000

To view the next page, type .np* TRANSMIT.

To view a specific page, transmit p* and the page number, e.g. p*1

[*56578]

September 12, 2000.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418-1379. **[*56579]**

Federal Communications Commission

OMB Control No.: 3060-0921.

Expiration Date: 08/31/2003.

Title: Petitions for LATA Boundary Modification for the Deployment of Advanced Services.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 20 respondents; 8 hours per response (avg.); 160 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: \$ 0.

Frequency of Response: On occasion.

Description: Bell Operating Companies (BOCs) that petition for LATA boundary modifications to encourage the deployment of advanced services on a reasonable and timely basis are requested to include information in accordance with specified criteria outlined in CC Docket No. 98-147, released 2/11/2000 (FCC No. 00-26). In order to review requests for LATA modifications promptly and efficiently, it is necessary that BOCs provide the information specified. The criteria set forth in the order will serve to ease the petition process on BOCs by providing guidelines that will serve to narrow the scope of their petitions to the issues and facts that the Commission is primarily concerned with. In addition, the request will also expedite the petition review process by ensuring that petitioners will provide all of the information the Commission needs to properly review the requests. *Obligation to respond:* Required to obtain or retain benefits.

OMB Control No.: 3060-0613.

Expiration Date: August 31, 2003.

Title: Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, Transport Phase II (Third R&O).

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 64 respondents; 13 hours per response (avg.); 832 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: \$ 0.

Frequency of Response: On occasion.

Description: Tier 1 local exchange carriers (except NECA members) are required to make tariff filings to provide certain signalling information to interested parties so that those parties can provide tandem switching services. Tandem switching providers are required to provide certain billing information to those Tier 1 local exchange carriers. The tariffs and cost support information accompanying them are used by the FCC staff to ensure that the tariff rates are paid for, signalling information are just, reasonable, and nondiscriminatory, as sections 201 and 202 of the Communications Act of 1934, as amended, require. Without this information, the FCC would be unable to determine whether the rates for these services are just, reasonable, nondiscriminatory, and otherwise in accordance with the law. Tariffs are used by parties using signalling information to ascertain the charges and other terms and conditions applicable to these offerings. Signalling information is necessary so that parties can provide tandem switching services. *Obligation to respond:* Mandatory.

OMB Control No.: 3060-0742.

Expiration Date: 09/30/2003.

Title: Telephone Number Portability (47 CFR Part 52, Subpart C, Sections 52.21-52.33).

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 1685 respondents; 5.48 hours per response (avg.); 9239 total

annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: \$ 0.

Frequency of Response: On occasion.

Description: 47 CFR Part 52, Subpart C implements the statutory requirement that local exchange carriers (LECs) provide number portability as set forth in Section 251 of the Telecommunications Act of 1996 (1996 Act). The Commission requires the following information:

a. Requests for long-term number portability in areas inside or outside the 100 largest MSAs:

Long-term number portability must be provided by LECs and CMRS providers inside the 100 largest Metropolitan Statistical Areas (MSAs) in switches for which another carrier has made a specific request for number portability, according to the Commission's deployment schedule. After the deadline for deployment in an MSA, carriers must deploy number portability in additional switches in that MSA upon request within certain time frames. After December 31, 1998, for LECs and after November 24, 2002, for CMRS providers outside the 100 largest MSAs, the *First Report and Order* continues to require deployment within six months after a specific request by another telecommunications carrier. The request must specifically request long-term number portability, identify the area covered by the request, and provide a tentative date six or more months in the future when the carrier expects to need number portability in order to port prospective customers. See 47 CFR Sections 52.23 (b) and 52.31(a). In a Memorandum Opinion and Order, in CC Docket No. 95-116, the Commission extended the deadline for CMRS providers to support service provider LNP in the top 100 MSAs until November 24, 2002. (Number of respondents: 210; hours per response: 3 hours; total annual burden: 630 hours).

b. Petitions to extend implementation deadline: Carriers that are unable to meet the deadlines for implementing a long-term number portability solution are required to file with the Commission at least 60 days in advance of the deadline a petition to extend the time by which implementation in its network will be completed. See 47 CFR Sections 52.23(3) and 52.31(d). (No. of respondents: 8; hours per response: 10 hours; total annual burden: 80 hours).

c. Tariffs and Cost Support: Incumbent LECs may recover their carrier-specific costs directly related to providing long-term number portability by establishing in tariffs filed with the Commission for a monthly number portability charge. See 47 CFR 52.33. Incumbent LECs are required to include many details in their cost support that are unique to the number portability proceeding pursuant to the Cost Classification Order. For instance, incumbent LECs must demonstrate that any incremental overhead costs claimed in their cost support are actually new costs incremental to and resulting from the provision of long-term number portability. (No. of respondents: 67; hours per response: 85.5 hours; total annual hours: 5728.5 hours).

d. Recordkeeping Requirement: Telecommunications carriers are required to provide information about their international and regional end-user telecommunications revenues that will enable the regional database administrator to allocate the costs of the number portability regional databases in a competitively neutral manner. See 47 CFR Sections 52.32 and 52.33. Incumbent LECs are also required to maintain records that detail both the nature and specific amount of these carrier-specific costs that are directly related to number portability, and those carrier-specific costs that are not directly related to number portability. See the Third Report and Order, CC Docket No. 95-116, released May 12, 1998. (No. of respondents: 1400; hours per response: 2 hours; total annual hour: 2800 hours).

The information collected and required by the Commission will be used to implement Section

251 of the Communications Act of 1934, as amended. *Obligation to respond:* Required to obtain or retain benefits.

OMB Control No.: 3060-0775. [***56580**]

Expiration Date: 09/30/2003.

Title: Separate Affiliate Requirement for Independent Local Exchange Carrier (LEC) Provision of International, Interexchange services (47 CFR Sections 64.1901-64.1903).

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 10 respondents; 6056.3 hours per response (avg.); 60,563 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: \$ 1,003,000.

Frequency of Response: Recordkeeping.

Description: In CC Dockets No. 96-149 and 96-61, the Commission imposed recordkeeping requirements on independent LECs. Independent LECs wishing to offer international, interexchange services must comply with the separate affiliate requirements of the Competitive Carrier Fifth Report and Order in order to do so. One of these requirements is that the independent LEC's international, interexchange affiliate must maintain books of account separate from such LECs' local exchange and other activities. This regulation does not require that the affiliate maintain books of account that comply with the Commission's Part 32 rules; rather, it refers to the fact that as a separate legal entity, the international, interexchange affiliate must maintain its own books of account in the ordinary course of its business. This recordkeeping requirement is used by the Commission to ensure that independent LECs providing international, interexchange services through a separate affiliate are in compliance with the Communications Act, as amended, and with Commission policies and regulations. *Obligation to respond:* Mandatory.

OMB Control No.: 3060-0710.

Expiration Date: August 31, 2003.

Title: Policy and Rules Concerning the Implementation of the Local Competition Provisions of the Telecommunications Act of 1996-CC Docket 96-98.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 12,250 respondents; 124.86 hours per response (avg.); 1,529,620 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: \$ 0.

Frequency of Response: On occasion; Recordkeeping; Third Party Disclosure.

Description: The Commission adopted rules and regulations to implement parts of 47 USC sections 251 and 252 that affect local competition. Incumbent local exchange carriers (LECs) are required to offer interconnection, unbundled network elements, transport and

termination, and wholesale rates for certain services to new entrants. Incumbent LECs must price such services at rates that are cost-based and just and reasonable and provide access to rights-of-way as well as establish reciprocal compensation arrangements for the transport and termination of telecommunications traffic.

a. *Submission of Information Necessary to Reach Agreement.* Parties negotiating agreements under section 252 are required to provide each other with information necessary to reach agreement. 47 USC 252(b). See also 47 CFR Sections 51.301, 51.100. (No. of respondents: 51; hours per response: 500 hours; total annual burden: 25,500 hours).

b. *Submission of Agreements to the State Commission.* Carriers must file interconnection agreements negotiated or arbitrated under the 1996 Act with the appropriate state commissions. Carriers must also file their existing interconnection agreements, including those with neighboring local exchange carriers (LECs), with the appropriate state commissions, according to schedules imposed by state commissions. Agreements between Class A carriers must be submitted to the state commission no later than June 30, 1997 or such earlier date as a state commission may require. Once agreements are approved by the state commission, incumbent LECs are also required to make provisions of their approved agreements available to all parties. 47 USC 252(e)(1), 252(i). See also 47 CFR Sections 51.100, 51.3, 51.303. (No. of respondents: 551; hours per response: 1.5 hours (avg.); total annual burden: 835 hours).

c. *Burden of Proof Regarding Interconnection and Access to Unbundled Network Elements.* An incumbent LEC may be required to provide information to state commissions to prove that a particular interconnection or access point to unbundled network elements is not technically feasible. An incumbent LEC that denies a request to combine network elements must prove by clear and convincing evidence that the requested combination is not technically feasible or that the requested combination would impair the ability of other carriers to interconnect or to access unbundled network elements. 47 USC 251(c)(2), (c)(3). See also CFR Sections 51.305, 51.323. (No. of respondents: 100; hours per response: 250 hours; total annual burden: 25,000 hours).

d. *Collocation.* When an incumbent LEC alleges that there are space constraints, it must provide the state commission with detailed floor plans or diagrams of those premises. When an incumbent LEC objects to collocation of equipment by a telecommunications carrier, the incumbent LEC bears the burden of demonstrating to the state commission that the equipment will not be actually used for the purpose of obtaining interconnection or gaining access to unbundled network elements. An incumbent LEC providing collocation must permit interconnection of copper or coaxial cable if such interconnection is first approved by the state commission. 47 USC 251(c)(6). See also 47 CFR Sections 51.321, 51.323. (No. of respondents: 100; hours per response: 25 hours; total annual burden: 25,000 hours).

e. *Notification that a State Commission Has Failed to Act.* Any interested party seeking preemption of a state commission's jurisdiction based on the state commission's failure to act shall notify the Commission as follows: (1) file with the Secretary of the Commission a detailed petition, supported by an affidavit, that states with specificity the basis for any claim that it has failed to act; (2) serve the state commission and other parties to the proceeding on the same day that the party serves the petition on the Commission; and (3) within 15 days of the filing of the petition, the state commission and parties to the proceeding may file a response to the petition. 47 USC 252(e). See also 47 CFR Section 51.803. (No. of respondents: 30; hours per response: 1 hour; total annual burden: 30 hours).

f. *Rural and Small Carriers.* Rural and small carriers may have to submit information to state commissions in order to (1) justify a continued exemption under section 251(f)(1) once a bona fide request has been made; and (2) petition a state commission for a suspension or modification of the Act's requirements under section 251(f)(2). 47 USC 251(f). See also 47

CFR Section 51.403. (No. of respondents: 500 hours; hours per response: 10 hours; total annual burden: 5000 hours).

g. *Pole Attachment Modifications*. Absent a private agreement establishing notification procedures, utilities must provide no less than 60 days' written notification of a modification of a pole attachment to parties holding attachments on the facility to be modified. Notice should be sufficiently specific to apprise the recipient of the nature and scope of the planned **[*56581]** modification. If the contemplated modification involves an emergency situation for which advanced written notice would prove impractical, the notice requirement does not apply, except that notice should be given as soon as reasonably practicable, which in some cases may be after the modification is completed. This requirement does not apply to routine pole maintenance activities. Utilities and parties with attachments should exchange maintenance handbooks or other written descriptions of their standard maintenance practices. Changes to these practices should be made only upon 60 days' written notice. 47 USC § 224(h). See also 47 CFR Section 1.1403. (No. of respondents: 12,250; hours per response: .50 hours; total annual burden: 531,125 hours).

h. *Pole Attachment Access Requests and Denials of Access*. The Commission adopts procedures to provide a complete record of pole access requests and denials of requests. Therefore, cable operators and telecommunications carriers must provide written requests for access to utilities. If access is not granted within 45 days of the request, the utility must confirm the denial in writing by the 45th day. The denial must be specific, and the utility must include all relevant evidence supporting its denial. It must enumerate how the evidence relates to one of the reasons that access can be denied under Section 224(f)(2), *i.e.*, lack of capacity, safety, reliability or engineering standards. 47 USC 224(f), 251(b)(4). See also CFR Section 1.1403. (No. of respondents: 2750; hours per response: 1.18 hours (avg.); total annual burden: 3250 hours).

i. *Dispute Resolution Process for Denials of Access*. Upon the receipt of a notice of denial from the utility, the requesting party shall have 60 days to file its complaint with the Commission. We anticipate that by following the required procedure for denials of access, the Commission will, upon receipt of a complaint, have all relevant information upon which to make its decision. The petition must be served pursuant to Section 1.1404(b) of the Commission's rules. 47 USC 224(f), 251(b)(4). See also CFR Sections 1.1403, 1.1404. (No. of respondents: 500; hours per response: 14.5 hours; total annual burden: 7250 hours).

j. *Preparation of Forward-Looking Economic Cost Studies to Determine Rates for Interconnection and Unbundled Network Elements during Arbitration Proceedings*. States may prepare themselves, or require parties to prepare, forward-looking economic cost studies to determine rates for unbundled elements during arbitration proceedings. 47 U.S.C. 251(c)(2), (c)(3), (c)(6), 252(d)(1). See also 47 CFR Section 51.505. (No. of respondents: 100; hours per response: 1216 hours; total annual burden: 121,600 hours).

k. *Preparation of a Cost Study on Avoidable Costs to Determine Resale Discounts*. States may prepare themselves, or require parties to prepare, avoided cost studies to determine resale discounts. Initially, a state may choose a percentage within the Commission's default discount percentage range, or set a discount through review of an avoided cost study prepared by a state or a party. A state that chooses to employ the Commission's default discount percentage range must articulate a reason for its choice, and must set a resale discount through review of an avoided cost study within a reasonable time after choosing the default percentage. 47 U.S.C. 251(c)(4), 252(d)(3). See also 47 CFR Sections 51.609, 51.611. (No. of respondents: 200; hours per response: 480 hours; total annual burden: 96,000 hours).

l. *Preparation of Forward-Looking Economic Cost Studies Conducted to Determine Reciprocal Rates for Transport and Termination of Telecommunications Traffic*. Parties may prepare

forward-looking economic cost studies to demonstrate their costs incurred for the transport and termination of telecommunications traffic. 47 U.S.C. 251(b)(5), 252(d)(2). See also 47 CFR Sections 51.505, 51.511, 51.705. (No. of respondents: 100; hours per response: 1216 hours; total annual burden: 121,600 hours).

m. *Measurement of Traffic for Purposes of Determining Whether Transport and Termination Traffic Flows are Symmetrical.* Parties will measure traffic flow to determine their reciprocal compensation payment obligations. Those parties regulated under a bill-and-keep arrangement may wish to measure relative traffic flow to determine whether it is roughly balanced. 47 U.S.C.251(b)(5), 252(d)(2). See also 47 CFR Sections 51.713, 51.703, 51.705. (No. of respondents: 550; hours per response: 700 hours; total annual burden: 385,000 hours).

n. *Filing Required for Arbitration.* Parties must provide documentation to states (or the Commission acting under 252(e)(5)) when arbitration is to occur. This information will be a statement of unresolved issues and the positions of the parties with respect to those issues, and a list of other issues discussed and resolved by the parties. 47 U.S.C.252(b)(2).

See also 47 CFR Section 51.807. (No. of respondents: 200; hours per respondent: 2 hours; total burden: 400 hours).

o. *Determination of Rates for Interconnection, Unbundled Network Elements, and Transport and Termination of Telecommunications Traffic-State Commission Review of Forward-Looking Economic Cost Studies.* The statute provides that during an arbitration the state commission shall set prices for interconnection, unbundled network elements, and transport and termination of telecommunications traffic. The state commission sets such prices either through review of a forward-looking economic cost study, or by choosing one of the Commission's proxies. 47 U.S.C.251(b), (c)(2), (c)(3), (c)(6), 252(d)(1). See also 47 CFR Section 51.507, 51.503, 51.505. (No. of respondents: 50; hours per response: 2160 hours; total annual burden: 108,000 hours).

p. *Determination of Resale Discount Percentage-State Commission Review of Avoided Cost Studies.* The statute provides that during an arbitration, the state commission shall set the percentage discount for resale of telecommunications services. Initially, a state may choose a discount percentage within the Commission's default discount percentage range, or set a discount through review of an avoided cost study prepared by a state or a party. A state that chooses to employ the Commission's default discount percentage range must set a resale discount through review of an avoided cost study within a reasonable time after choosing the default percentage. 47 U.S.C. 251(c)(4), 252(d)(3). See also 47 CFR Section 51.611. (No. of respondents: 50; hours per response: 640 hours; total annual burden: 32,000 hours).

q. *Petition for Incumbent LEC Status.* A state commission, or any other interested party, may request that the Commission issue an order declaring that a particular LEC be treated as an incumbent LEC, or that a class or category of LECs be treated as incumbent LECs. 47 U.S.C. 251(h)(2). (No. of respondents: 30; hours per response: 1 hour; total annual burden: 30 hours).

r. *Use of Proxies by State Commissions-Articulating Written Reasons for Choice.* State commissions may set rates for interconnection, unbundled network elements, transport and termination of telecommunications traffic, and resale utilizing a proxy or default percentage as an alternative to conducting or reviewing a cost study. In the First Order on Reconsideration, the Commission created a proxy to assist **[*56582]** state commissions in setting rates for the flat-rated component of the local switching network element. If a state commission chooses this option, it must articulate written reasons for its choice. 47 USC 251 (b)(5), (c)(2), (c)(3), (c)(4), (c)(6), 252(d)(1), (d)(2), (d)(3). See also 47 CFR Sections 51.503, 51.505. (No. of respondents: 50; hours per response: 120 hours; total annual

burden: 6000 hours).

s. Preparation of Forward-looking Economic Cost Studies to Establish Rates for Transport and Termination for Paging and Radiotelephone Service, Narrowband Personal Communications Services, and Paging Operations in the Private Land Mobile Radio Services. A state commission shall establish the rates that licensees in the Paging and Radiotelephone Service, Narrowband Personal Communications Services, and Paging Operations in the Private Land Mobile Radio Services may charge to other carriers for transport and termination of traffic, to the extent these carriers are unable to reach agreement on transport and termination rates in their interconnection agreements. Such rates must be based on forward-looking economic costs, and may not be set utilizing a proxy. Given the lack of information in the record concerning paging providers' costs, the Commission was unable to set a proxy for transport and termination rates for use by these carriers. 47 U.S.C. 251(b)(5). See also 47 CFR Sections 20.11, 51.505, 51.513. (No. of respondents: 50; hours per response: 720 hours; total annual burden: 36,000 hours). All of the requirements would be used to ensure that respondents comply with their obligations under the Telecommunications Act of 1996. *Obligation to respond:* Mandatory.

Public reporting burden for the collection of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00-24027 Filed 9-18-00; 8:45 am]

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11 FCC Rcd 8352, *; 1996 FCC LEXIS 3430, **;
3 Comm. Reg. (P & F) 600

In the Matter of Telephone Number Portability

CC Docket No. 95-116; RM 8535

FEDERAL COMMUNICATIONS COMMISSION

11 FCC Rcd 8352; 1996 FCC LEXIS 3430; 3 Comm. Reg. (P & F) 600

RELEASE-NUMBER: FCC 96-286

July 2, 1996 Released; Adopted June 27, 1996; Comment Date August 16, 1996; Reply
Comment Date September 16, 1996

ACTION: [1] FIRST REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED
RULEMAKING**

JUDGES:

By the Commission

OPINION:

[*8353] I. INTRODUCTION

1. We initiated this proceeding on July 13, 1995, when we adopted a Notice of Proposed Rulemaking seeking comment on a wide variety of policy and technical issues related to telephone number portability. n1 Since our adoption of the Notice, the Telecommunications Act of 1996 became law. n2 Section 251, added by the 1996 Act, requires all local exchange carriers (LECs), both incumbents and new entrants, to offer number portability in accordance with requirements prescribed by the Commission. n3 On March 14, 1996, the Common Carrier Bureau released a Public Notice seeking comment on how the passage of the 1996 Act may have affected the issues raised in the Notice. n4 [*8354] Comments in response to the Public Notice were received on March 29, 1996, and reply comments were filed on April 5, 1996. In addition, efforts to implement number portability at the state level have progressed since adoption of the Notice.

n1 Telephone Number Portability, CC Docket No. 95-116, 10 FCC Rcd 12350 (1995) (Notice). A list of parties filing comments and reply comments in response to the Notice is attached below as Appendix A. [****2**]

n2 Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act).

n3 47 U.S.C. § 251(b)(2).

n4 Further Comments: Telephone Number Portability, Public Notice, CC Docket No. 95-116, DA 96-358, 61 Fed. Reg. 11,174 (1996) (Public Notice). A list of parties filing comments and reply comments in response to the Public Notice is included in Appendix A, below.

2. The Telecommunications Act of 1996 establishes "a pro-competitive, deregulatory national policy framework" that is intended to "promote competition and reduce regulation . . . to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies." n5 The statute imposes obligations and responsibilities on telecommunications carriers, particularly incumbent local exchange carriers, that are designed to open monopoly telecommunications markets to competitive entry and to promote competition in markets that already are open to

*Order concerning
CMRS providers
outside of top 100
MSA's*

new competitors. n6 In particular, section 251(b) imposes specific obligations on all local exchange carriers to open their networks to competitors. The Act envisions that removing **[**3]** legal and regulatory barriers to entry and reducing economic impediments to entry will enable competitors to enter markets freely, encourage technological development, and ensure that a firm's prowess in satisfying consumer demand will determine its success or failure in the marketplace. In implementing the statute, the Commission has the responsibility to adopt the rules that will implement most quickly and effectively the national telecommunications policy embodied in the 1996 Act. Number portability is one of the obligations that Congress imposed on all local exchange carriers, both incumbents and new entrants, in order to promote the pro-competitive, deregulatory markets it envisioned. Congress has recognized that number portability will lower barriers to entry and promote competition in the local exchange marketplace. In its report, the Senate Committee on Commerce, Science, and Transportation concluded that the "minimum requirements [for interconnection set forth in new section 251(b), including number portability,] are necessary for opening the local exchange market to competition." n7 Likewise, the House of Representatives Committee on Commerce determined that "the ability **[**4]** to change **[*8355]** service providers is only meaningful if a customer can retain his or her local telephone number." n8

n5 S. Conf. Rep. No. 230, 104th Cong., 2d Sess. 1 (1996).

n6 According to Senator Larry Pressler, "the more open access takes hold, the less other government intervention is needed to protect competition. Open access is the principle establishing a fair method to move local phone monopolies and the oligopolistic long distance industry into full competition with one another." 141 Cong. Rec. S7889 (daily ed. June 7, 1995) (statement of Sen. Pressler). Senator Ernest F. Hollings has said, "competition is the best regulator of the marketplace. But until that competition exists, until the markets are opened, monopoly-provided services must not be able to exploit the monopoly power to the consumers' disadvantage. Competitors are ready and willing to enter the new markets as soon as they are opened." Id. at S7984 (statement of Sen. Hollings).

n7 Senate Comm. on Commerce, Science, and Transportation Report on S. 652 at 19-20 (Mar. 30, 1995) (Senate Report).

n8 House of Rep. Comm. on Commerce Report on H.R. 1555 at 72 (July 24, 1995) (House Report).

3. In this **[**5]** Order, we promulgate rules and regulations implementing this congressional directive. Although we decline to choose a particular technology for providing number portability, we establish in this First Report and Order performance criteria that any long-term number portability method selected by a LEC must meet. Pursuant to the statutory requirement in section 251 to provide number portability, we require all LECs to begin to implement a long-term service provider portability solution that meets our performance criteria in the 100 largest Metropolitan Statistical Areas (MSAs) no later than October 1, 1997, and to complete deployment in those MSAs by December 31, 1998, in accordance with a phased schedule set forth below. Number portability must be provided in these areas by all LECs to all telecommunications carriers, including commercial mobile radio services (CMRS) providers.

4. The statute explicitly excludes CMRS providers from the definition of local exchange carriers, and therefore from the section 251(b) obligations to provide number portability, unless the Commission concludes that they should be included in the definition of local exchange carrier. n9 Our recent Notice of **[**6]** Proposed Rulemaking on interconnection issues raised by the 1996 Act sought comment generally on whether, and to what extent, CMRS providers should be classified as LECs. n10 Because we conclude that we have independent authority under sections 1, 2, 4(i), and 332 of the Communications Act of 1934,

as amended, n11 to require cellular providers, broadband personal communications services (PCS), and covered Specialized Mobile Radio (SMR) providers n12 to provide long-term service provider portability, we need not decide here whether CMRS providers must provide number portability as local exchange carriers under section 251(b). We require all cellular, broadband PCS, and covered SMR providers to have the capability of delivering calls from their networks to ported numbers anywhere in the country by December 31, 1998, and to offer service provider portability, including the ability to support roaming, throughout their networks by June 30, 1999.

n9 See 47 U.S.C. § 153(26).

n10 Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Notice of Proposed Rulemaking, CC Docket No. 96-98, FCC 96-182, P 195 (rel. Apr. 19, 1996) (Interconnection NPRM). **[**7]**

n11 47 U.S.C. §§ 151, 152, 154, 332.

n12 For an explanation of "covered SMR providers," see infra note 449.

5. We conclude that a system of regional databases that are managed by an independent administrator will serve the public interest. We direct the North American **[*8356]** Numbering Council (NANC) to provide initial oversight of this regional database system. We direct the NANC to determine the number and location of the regional databases and to select one or more administrators responsible for deploying the database system. Any state that prefers to develop its own statewide database rather than participate in a regionally-deployed database, however, may opt out of its designated regional database and implement a state-specific database. We will retain authority to override a state's decision to develop a statewide database if an affected carrier can demonstrate that the state's proposal would significantly delay deployment of a long-term method or impose unreasonable costs on affected carriers.

6. Until long-term service provider portability is available, we require LECs to provide currently available number portability measures, such as Remote Call Forwarding (RCF) and **[**8]** Direct Inward Dialing (DID), upon specific request from another carrier. We conclude, however, that commercial mobile radio service providers need not provide such measures due to technical considerations specific to the CMRS industry. We enunciate principles that ensure that the costs of currently available measures are borne by all telecommunications carriers on a competitively neutral basis, and we conclude that states may utilize various cost recovery mechanisms, so long as they are consistent with these statutory requirements. We decline at this time to require the provision of either service or location portability. We conclude that, while the statute requires LECs to implement 500 and 900 number portability, there is insufficient record evidence to determine whether LEC provision of portability for 500 and 900 numbers is technically feasible. As a result, we refer the issue to the Industry Numbering Committee (INC), which must report its findings to the Commission within 12 months of the effective date of this Order. Finally, we adopt a Further Notice of Proposed Rulemaking regarding cost recovery for long-term number portability.

II. BACKGROUND

A. Telecommunications **[**9]** Act of 1996

7. New section 251(b)(2) of the Communications Act of 1934, as added by the 1996 Act, directs each local exchange carrier "to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." n13 The 1996 Act defines the term "local exchange carrier" as:

any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a [commercial mobile service provider,] as defined under section 332(c), except to the extent that **[*8357]** the Commission finds that such provider should be included in the definition of such term. n14

The 1996 Act defines "number portability" as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." n15

n13 47 U.S.C. § 251(b)(2).

n14 See 47 U.S.C. § 153(26).

n15 See 47 U.S.C. § 153(30). In our Notice, we defined three types of number portability: (1) service provider - the ability to retain one's number when changing service providers; (2) service - the ability to retain one's number when changing services; and (3) location - the ability to retain one's number when changing physical locations. Notice, 10 FCC Rcd at 12355-56. ****10**

8. The 1996 Act defines the term "telecommunications carrier" as "any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in section 226)." n16 The term "telecommunications service" is defined by the 1996 Act as "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." n17 Because the 1996 Act's definition of number portability requires LECs to provide number portability when customers switch from any telecommunications carrier to any other, n18 the statutory obligation of LECs to provide number portability runs to other telecommunications carriers. Because CMRS falls within the statutory definition of telecommunications service, CMRS carriers are telecommunications carriers under the 1996 Act. As a result, LECs are obligated under the statute to provide number portability to customers seeking to switch to CMRS carriers.

n16 See 47 U.S.C. § 153(44).

n17 See 47 U.S.C. § 153(46). The term "telecommunications" means "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." 47 U.S.C. § 153(43). ****11**

n18 See 47 U.S.C. § 153(30).

9. In addition to the duties imposed by section 251(b) on all LECs, section 251(c)(1) imposes upon incumbent LECs, inter alia, the "duty to negotiate in good faith . . . the terms and conditions of agreements to fulfill" the section 251(b) obligations, including the duty to provide number portability. n19 An incumbent LEC is defined as a carrier that was providing exchange access service in a particular area on February 8, 1996, and was a member of the National Exchange Carrier Association (NECA) pursuant **[*8358]** to section 69.601(b) of the Commission's regulations. n20 The 1996 Act creates an exemption from the obligations of section 251(c) for rural telephone companies, n21 and allows LECs with fewer than two percent of the nation's subscriber lines to petition a state commission for suspension or modification of the application of sections 251(b) and (c). n22

n19 See 47 U.S.C. § 251(c)(1).

n20 47 U.S.C. § 251(h)(1); 47 C.F.R. § 69.601(b).

n21 A "rural telephone company" is a LEC that "(A) provides common carrier service to any local exchange carrier study area that does not include either -- (i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or (ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993; (B) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines; (C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or (D) has less than 15 percent of its access lines in communities of more than 50,000 on [February 8, 1996]." See 47 U.S.C. § 153(37). **[**12]**

n22 See 47 U.S.C. § 251(f)(1)-(2).

10. Section 251(e)(1) reinforces the Commission's authority over matters relating to the administration of numbering resources by giving the Commission exclusive jurisdiction over those portions of the North American Numbering Plan (NANP) that pertain to the United States. n23 This subsection also requires the Commission to "create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis." n24 Moreover, section 251(e)(2) provides that the cost of "number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission." n25

n23 See 47 U.S.C. § 251(e)(1). Section 251(e)(1) further states that the provision does not preclude the Commission from delegating jurisdiction to the states or other entities. *Id.* Under the 1996 Act, the term "United States," "means the several States and Territories, the District of Columbia, and the possessions of the United States, but does not include the Canal Zone." See 47 U.S.C. § 153(50).

n24 47 U.S.C. § 251(e)(1).

n25 See 47 U.S.C. § 251(e)(2).

11. **[**13]** Finally, new section 271(c)(2)(B) establishes a "competitive checklist" of requirements that the Bell Operating Companies (BOCs) must meet to provide In-region interLATA services. n26 One of the requirements that the BOCs must satisfy is the provision of "interim number portability through remote call forwarding, direct inward **[*8359]** dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible" until the Commission issues regulations pursuant to section 251 to implement the statute's number portability requirements. Section 271(c)(2)(B)(xi) directs the BOCs to comply fully with the regulations implemented by the Commission. n27

n26 See 47 U.S.C. § 271(c)(2)(B). "InterLATA service" means telecommunications between a point located in a local access and transport area (LATA) and a point located outside such area. 47 U.S.C. § 153(21). The term "in-region" means an area in which a BOC or any of its affiliates was authorized to provide wireline telephone exchange service pursuant to the reorganization plan approved under the AT&T Consent Decree, as in effect on the day before the date of enactment of the 1996 Act. 47 U.S.C. § 271(i)(1). **[**14]**

n27 See 47 U.S.C. § 271(c)(2)(B)(xi).

82. In addition, we believe that our phased implementation of long-term number portability is in the public interest and supported by the record. Our phased deployment schedule takes in account the differing levels of local exchange competition that are likely to emerge in the different geographic areas throughout the country. Thus, our deployment schedule is designed to ensure that number portability will be made available in those regions where competing service providers are likely to offer alternative services. We believe that competitive local service providers are likely to be providing service in the major metropolitan areas soon. n250 In those areas beyond the 100 largest MSAs, however, the actual pace of competitive entry into local **[**95]** markets should determine the need for service provider portability. We therefore agree with those parties that argue that, in markets outside of the 100 largest MSAs, long-term number portability should be deployed within six months of a specific request from another telecommunications provider. n251 We believe a six-month interval is appropriate given the **[*8396]** more significant network upgrades that may be necessary for carriers operating in these smaller areas.

Effective after 11/24/02 (partially codified in 47 CFR 52.31(c)(1)(v))

n250 Competition has already begun in several MSAs. See Teleport Ex Parte Letter at 1-4, from Paul Kouroupas, to William Caton, FCC, CC Docket No. 95-116, filed Mar. 29, 1996 (Teleport March 29, 1996 Ex Parte Letter). AT&T has applied for certification in all 50 states. AT&T Ex Parte Letter at 2, from Frank Simone, to William F. Caton, FCC, CC Docket No. 95-116, filed Mar. 29, 1996 (AT&T March 29, 1996 Ex Parte Letter).

n251 See MCI June 19, 1996 Ex Parte Letter (arguing in favor of requiring provision of number portability in areas outside of 100 largest MSAs within six months of a request); Time Warner Holdings Comments at 14- 16 (arguing in favor of requirement that number portability be provided within six months after request of another telecommunications carrier); Time Warner Holdings February 26, 1996 Ex Parte Filing at 3. **[**96]**

83. We note that the 1996 Act exempts rural telephone companies from the "duty to negotiate . . . the particular terms and conditions of agreements to fulfill the [interconnection] duties" created by the 1996 Act, including the provision of number portability, and that carriers satisfying the statutory criteria contained in section 251(f) may be exempt from the obligations to provide number portability as set forth herein. n252 In addition, section 251(f)(2) permits a LEC with fewer than two percent of the country's total installed subscriber lines to petition a state commission for suspension or modification of the requirements of section 251. n253 In our recent notice of proposed rulemaking implementing sections 251 and 252 of the Communications Act, we address the application of this statutory exemption, and we believe that specific application of such provisions is best addressed in that proceeding. n254 We intend to establish regulations to implement these provisions by early August 1996, consistent with the requirements of section 251(d). n255

n252 See 47 U.S.C. § 251(c), (f).

n253 47 U.S.C. § 251(f)(2).

n254 Interconnection NPRM at PP 260-261.

n255 47 U.S.C. § 251(d)(1) (mandating that Commission implement requirements of section 251 within six months of enactment of 1996 Act). **[**97]**