

By Thurs. pm
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2001 ASSEMBLY BILL 855

O-NOTE

-1280/1

PM NOT
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February 26, 2002 - Introduced by Representatives SCHOFF, MUSSER, RYBA, PLALE and TURNER. Referred to Joint Committee on Information Policy and Technology.

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.

The Federal Communications Commission has ordered

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 a customer to retain existing telephone numbers at the same location 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, 2003. The duty applies

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ASSEMBLY BILL 855

only if a customer of a wireless telecommunications provider switches to another telecommunications provider in the same area code. In addition, 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 106~~
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 in the same area code to
17 retain the telephone numbers that the customer used with that commercial mobile
18 radio service provider.

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ASSEMBLY BILL 855

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

4 **SECTION 3. Effective date.**

5 (1) This act takes effect on November 24, ~~2002~~

2003

6 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1280/1dn

MDK:/:....

WLj

Representative Schooff:

This bill is a redraft of ~~2002~~ ²⁰⁰¹ Assembly Bill 855, except the deadline is advanced by ~~1~~ ^{one} year (i.e., the bill's deadline is November 24, 2003). The new deadline is consistent with the FCC's most recent order on this issue.

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1280/1dn
MDK:wlj:jf

January 22, 2003

Representative Schooff:

This bill is a redraft of 2001 Assembly Bill 855, except the deadline is advanced by one year (i.e., the bill's deadline is November 24, 2003). The new deadline is consistent with the FCC's most recent order on this issue.

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Verizon Wireless's Petition for Partial)	
Forbearance from the Commercial Mobile Radio)	WT Docket No. 01-184
Services Number Portability Obligation)	
)	
And)	
)	
Telephone Number Portability)	CC Docket No. 95-116

MEMORANDUM OPINION AND ORDER

Adopted: July 16, 2002

Released: July 26, 2002

By the Commission: Commissioners Abernathy and Martin approving in part, dissenting in part, and issuing separate statements; Commissioner Copps issuing a statement.

I. INTRODUCTION

1. In this Order, we deny, in part, Verizon Wireless's (Verizon) petition for permanent forbearance from the Commission's wireless local number portability (LNP) rules.¹ We find, however, that extending the LNP implementation deadline for a period of one year until November 24, 2003, will allow adequate time to resolve all outstanding LNP implementation issues, including training personnel and other non-technical tasks, and critically, public safety coordination. It will also allow wireless carriers to focus on the successful implementation of thousands-block number pooling and will reduce the burdens and potential risks associated with the simultaneous implementation of thousands-block number pooling and porting. By providing a transition between number pooling and number portability, we ensure that our critical numbering optimization goals are met before the obligation to implement LNP becomes due. We also find that the competitive reasons that lead the Commission to require wireless LNP remain valid today and that there are sufficient competitive and consumer benefits in terms of innovative service offerings, higher quality services, and lower prices to justify the cost of implementing LNP in the near future.

A. Number Portability for CMRS Providers

2. Section 251(b) of the Communications Act of 1934, as amended (the Act) requires local exchange carriers (LECs) to provide service provider LNP, to the extent technically feasible, in accordance with requirements prescribed by the Commission.² On July 2, 1996, the Commission released its *First Report and Order* on number portability, which promulgated rules and deployment schedules for the implementation of number portability.³ Although Commercial Mobile Radio Service (CMRS) carriers are not LECs, and thus are not included in section 251(b), the Commission also required number

¹ 47 C.F.R. § 52.31.

² 47 U.S.C. § 251(b).

³ Telephone Number Portability, CC Docket No. 95-116, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352 (1996) (*First Report and Order*).

portability for CMRS carriers.⁴ The Commission determined that implementation of LNP, which would enable wireless subscribers to keep their phone numbers when changing carriers, would enhance competition between these carriers as well as promote competition between wireless and wireline carriers.⁵ This determination was supported at the time by many in the wireless industry, particularly new Personal Communications Services (PCS) providers, who viewed wireless LNP as important to promoting competition with more established cellular carriers.⁶ The Commission also concluded that “[i]mplementation of long-term service provider portability by CMRS providers will have an impact on the efficient use and uniform administration of the numbering resource.”⁷

3. The Commission required cellular, broadband PCS, and covered specialized mobile radio (SMR) carriers to have the capability to deliver calls from their networks to ported numbers anywhere in the country by December 31, 1998.⁸ In addition, CMRS carriers were required to offer service provider LNP, including the ability to support roaming, throughout their networks by June 30, 1999.⁹ The Commission delegated authority to the Chief of the Wireless Telecommunications Bureau (Bureau), to extend the dates contained in the CMRS implementation schedule up to nine months.¹⁰ On reconsideration, the Commission upheld its decision to impose number portability requirements on CMRS providers, with some clarifications.¹¹

4. On November 24, 1997, the Cellular Telecommunications and Internet Association (CTIA)¹² filed a petition with the Bureau to exercise its delegated authority to extend the CMRS service provider number portability deadline by nine months.¹³ On September 1, 1998, the Bureau granted the requested nine-month extension, stating that it was necessary to provide additional time for the wireless industry to develop and test standards in order to ensure efficient deployment of wireless number portability.¹⁴ As a result of the *Bureau Extension Order*, the deadline for CMRS carriers to offer service provider portability

⁴ The Commission imposed number portability requirements on CMRS carriers pursuant to its authority under sections 1, 2, 4(i), and 332 of the Act. See 47 U.S.C. §§ 1, 2, 4(i), and 332.

⁵ *First Report and Order*, 11 FCC Rcd at 8434-36, paras. 157-160.

⁶ *Id.* at 8426, para. 144.

⁷ *Id.* at 8431-32, para. 153.

⁸ *Id.* at 8440, para. 165. This gave CMRS carriers the ability to deliver telephone calls made by their customers on a wireless phone to wireline customers who have retained their telephone number but switched service providers.

⁹ *Id.* at para. 166.

¹⁰ *Id.* at para. 167.

¹¹ Telephone Number Portability, CC Docket No. 95-116, *First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 7236, 7313, paras. 136-37 (1997) (*First Memorandum Opinion and Order*). The Commission clarified that under the CMRS implementation schedule, by June 30, 1999, CMRS providers were required to (1) offer service provider portability in the largest 100 MSAs where a request was received at least nine months before the deadline, and (2) be able to support nationwide roaming. Although only CMRS carriers in the largest 100 MSAs were required to offer service provider portability by the June 30, 1999, deadline, all CMRS carriers were required to support roaming by that date. This requirement was intended to ensure that if a customer with a ported number roamed into another CMRS carrier's network, that CMRS carrier would support that customer's ability to make and receive calls.

¹² At the time CTIA filed its petition, it was known as the Cellular Telecommunications and Industry Association.

¹³ Telephone Number Portability, Petition for Extension of Implementation Deadlines of the Cellular Telecommunications Industry Association, CC Docket No. 95-116 (filed Nov. 24, 1997).

¹⁴ Telephone Number Portability, Petition for Extension of Implementation Deadlines of the Cellular Telecommunications Industry Association, CC Docket No. 95-116, *Memorandum Opinion and Order*, 13 FCC Rcd 16315, 16317, para. 7 (1998) (*Bureau Extension Order*).

was extended from June 30, 1999, to March 31, 2000.¹⁵

5. On December 16, 1997, CTIA filed a petition with the Commission under section 10 of the Act,¹⁶ requesting that the Commission forbear from imposing LNP obligations on CMRS providers until the completion of the five-year buildout period for broadband PCS carriers. On February 8, 1999, the Commission granted the petition and extended the deadline for CMRS providers to offer service provider LNP in the largest 100 MSAs until November 24, 2002.¹⁷ The Commission found that limited forbearance was justified because the three-prong test for forbearance had been met. Considering evidence that competition in the wireless market had increased significantly as the result of recent service launches by broadband PCS and SMR carriers, and that prices were falling at least in part because of the entry of the new competitors, the Commission found that LNP requirements were not necessary, at that time, to ensure just and reasonable charges and practices in the wireless industry.¹⁸ The Commission also found that LNP requirements were not necessary to protect consumers at that time because evidence showed that demand for LNP among consumers was low and that consumers were routinely switching among wireless carriers even without LNP.¹⁹ Finally, the Commission determined that forbearance was consistent with the public interest for both technical and competitive reasons. The Commission found that the wireless industry needed additional time to develop and deploy LNP technology and that forbearance would also give CMRS carriers flexibility to complete network buildout, technical upgrades, and other improvements that were likely to have a more immediate impact on enhancing wireless service and promoting competition.²⁰

6. Although the Commission concluded that a limited period of forbearance was appropriate, it expressly rejected arguments for complete forbearance from the wireless number portability requirements.²¹ The Commission found that the competitive reasons that led it to mandate wireless number portability in the *First Report and Order* remained fundamentally valid and indicated that it remained committed to the basic regulatory approach outlined in prior orders.²² The Commission stated that the new implementation schedule did not relieve CMRS carriers of their underlying obligation to implement LNP and that carriers were expected to work toward implementation during the interim period.²³ In February 2000, the Commission affirmed its decision against permanent forbearance on

¹⁵ *Id.* In the *Bureau Extension Order*, the Commission took no action with respect to the requirement that by December 31, 1998, all cellular, broadband PCS, and covered SMR providers have the capability to deliver calls from their networks to ported numbers.

¹⁶ 47 U.S.C. § 160.

¹⁷ Telephone Number Portability, Cellular Telecommunication and Industry Association's Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations, WT Docket No. 98-229, *Memorandum Opinion and Order*, 14 FCC Rcd 3092 (1999) (*1999 Forbearance Order*). On December 15, 1998, the Commission exercised its authority under 47 U.S.C. § 160(c) to extend the one-year period for decision by 90 days, which moved the deadline for Commission action on the CTIA petition to March 16, 1999.

¹⁸ *Id.* at 3101-02, para. 19.

¹⁹ *Id.* at 3103, para. 22.

²⁰ *Id.* at 3104-05, para. 25.

²¹ *Id.* at 3112-13, para. 40.

²² *Id.*

²³ *Id.* at 3117, para. 49.

reconsideration.²⁴

B. Numbering Exhaust and Numbering Resource Optimization

7. At the time of the *1999 Forbearance Order*, the Commission had not adopted thousands-block number pooling requirements. However, the Commission there stated its intention to develop standards for number conservation methods, including pooling, and to initiate a rulemaking proposing certain non-LNP based numbering optimization techniques applicable to all telecommunications carriers. On June 2, 1999, the Commission released a notice of proposed rulemaking on numbering resource optimization.²⁵

8. In its *First Report and Order* on numbering resource optimization,²⁶ the Commission adopted several administrative and technical measures to allow it to closely monitor the use of numbering resources within the North American Numbering Plan (NANP). To accommodate the increasing need for new telephone numbers caused, in part, by the introduction of new wireless and wireline devices, the Commission also adopted a system for allocating numbers in blocks of 1,000 rather than 10,000 (thousands-block number pooling). This system is designed to provide for more efficient allocation of numbers by not giving carriers more numbers than they can use. The Commission determined that all carriers, including wireless carriers, would be required to participate in thousands-block number pooling once they became LNP-capable. In the *Second Report and Order* on numbering resource optimization, the Commission declined to adopt a transition period between the time that CMRS carriers must implement LNP and the time they must participate in pooling, finding that carriers had failed to provide sufficient evidence that they would be unable to implement pooling by the deadline for implementation of LNP.²⁷

9. BellSouth, Cingular, CTIA, Qwest, and Sprint filed petitions seeking reconsideration of the Commission's decision to require simultaneous implementation of number pooling and number portability.²⁸ These carriers asserted that they needed additional time to make changes to their systems to be able to implement pooling.²⁹ Sprint argued that the Commission's decision not to establish a separate and phased-in implementation plan for CMRS pooling was unexplained and contrary to precedent.³⁰ In the *Third Report and Order* on numbering resource optimization, the Commission again declined to alter the implementation date for covered CMRS carriers to participate in pooling, noting that it was in the

²⁴ Telephone Number Portability, Cellular Telecommunications and Industry Association's Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations, WT Docket No. 98-229, *Order on Reconsideration*, 15 FCC Rcd 4727, 4733, para. 12 (2000) (*Order on Reconsideration*).

²⁵ Numbering Resource Optimization, CC Docket No. 99-200, *Notice of Proposed Rulemaking*, 14 FCC Rcd 10322 (1999).

²⁶ Numbering Resource Optimization, CC Docket No. 99-200, *Report and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 7574 (2000) (*Numbering Resource Optimization First Report and Order*).

²⁷ Numbering Resource Optimization, CC Docket No. 99-200, *Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking*, 16 FCC Rcd 306 at 328, para. 50 (2000) (*Numbering Resource Optimization Second Report and Order*).

²⁸ BellSouth Petition for Reconsideration and Clarification, CC Docket No. 99-200 at 12-15 (filed March 12, 2001); CTIA Petition for Reconsideration, CC Docket No. 99-200 at 5-14 (filed March 12, 2001); Cingular Wireless LLC Petition for Reconsideration of the Second Report and Order and Order on Reconsideration, CC Docket No. 99-200 at 3-13 (filed March 12, 2001) (*Cingular Petition*); Petition for Reconsideration of Qwest Corp., CC Docket No. 99-200 at 2-5 (filed March 12, 2001) (*Qwest Petition*); Sprint Corporation Petition for Reconsideration and Clarification, CC Docket No. 99-200 at 5-12 (filed March 12, 2001) (*Sprint Petition*).

²⁹ See *Cingular Petition* at 3-6; *Qwest Petition* at 5.

³⁰ *Sprint Petition* at 5-12.

public interest to require covered CMRS carriers to participate in pooling as soon as possible to maximize number utilization efficiency.³¹

C. Verizon Forbearance Petition and Comments

10. On July 26, 2001, Verizon filed a petition requesting that the Commission permanently forbear from imposing LNP requirements on covered CMRS providers under section 10 of the Act.³² In its forbearance petition, Verizon argues that the wireless LNP requirements will impose "complex technical burdens and expenses that are not justified by tangible competitive benefits."³³ Verizon also contends that wireless carriers need not implement LNP to be able to participate in thousands-block number pooling. Verizon contends that although carriers must make certain changes to their network architecture to be able to pool, they would need to make additional changes and incur considerably greater burdens to be able to provide LNP.³⁴ Verizon does not seek additional time to implement pooling, and commits to participate in pooling by November 24, 2002, but contends that granting forbearance from the wireless LNP requirements will allow CMRS carriers to focus on successfully meeting the pooling deadline.

11. The majority of CMRS carriers submitting comments support Verizon's request for permanent forbearance. They agree with Verizon that the benefits of requiring wireless carriers to implement LNP do not outweigh the costs associated with implementing LNP.³⁵ For example, Cingular claims that implementation of LNP will involve enormous costs and will not provide wireless subscribers with better rates, coverage, or service quality.³⁶ AT&T Wireless argues that permanent forbearance from the LNP requirements is appropriate because portability has not been necessary for the development of competition in the wireless industry and will not be needed to promote further competition.³⁷ Other wireless carriers, on the other hand, argue that the Commission should retain the LNP requirements with certain modifications.³⁸ Leap Wireless, for instance, opposes any delay of the wireless LNP mandate, stating that the public interest benefits in the form of increased competition and conservation of numbering resources outweigh the costs associated with implementing LNP.³⁹ Leap proposes that the Commission maintain LNP requirements for wireless carriers but clarify that carriers need only be capable of porting numbers out to other carriers and that they need not develop the capability to port numbers in.⁴⁰ Nextel suggests that the Commission allow an eighteen to twenty-four month transition

³¹ Numbering Resource Optimization, CC Docket No. 99-200, *Third Report and Order*, 17 FCC Rcd 252, 263, para. 23 (2001).

³² Verizon Wireless Petition Pursuant to 47 U.S.C. § 160 for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation, WT Docket No. 01-184 (filed July 26, 2001) (*Verizon Wireless Forbearance Petition*).

³³ *Verizon Wireless Forbearance Petition* at 2.

³⁴ *Id.* at 4.

³⁵ ACS Wireless, ALLTEL, AT&T Wireless, Cingular Wireless, Dobson Communications, Sprint PCS, United States Cellular, VoiceStream Wireless, and Western Wireless all filed comments supporting Verizon's petition. Comments and Reply Comments filed in response to the Verizon Wireless Petition are listed in Appendix A.

³⁶ Cingular Comments at 3.

³⁷ AT&T Wireless Comments at 6-7.

³⁸ See Cox Reply Comments; Leap Wireless Reply Comments; Mid-Missouri Cellular Reply Comments; Nextel Reply Comments; and Public Service Cellular Reply Comments.

³⁹ Leap Wireless Reply Comments at 1.

⁴⁰ *Id.* at 1-2.

period between the implementation of LNP and pooling.⁴¹

12. A number of carriers supporting permanent forbearance have also argued in the alternative that in the event the Commission deems permanent forbearance inappropriate, the Commission should delay the wireless LNP implementation date by a significant amount of time. Sprint argues, for example, that if the Commission decides against permanent forbearance, it should temporarily forbear from imposing LNP requirements on wireless carriers for three years and reexamine the need for the LNP requirements at the second anniversary of the temporary forbearance order.⁴² AT&T argues that the Commission should forbear from imposing the wireless LNP requirements for a minimum of thirty months.⁴³

13. State utility commissions generally oppose Verizon's request for permanent forbearance. Some are skeptical about Verizon's claim that wireless carriers can participate in pooling before implementing LNP.⁴⁴ Others argue that wireless LNP is necessary to avoid the stranding of numbers associated with wireless churn.⁴⁵ Some state commissions also contend that forbearing from imposing LNP requirements would stifle further development of competition within the wireless industry and between the wireless and wireline industries and therefore would be contrary to the public interest.⁴⁶ Moreover, state commenters argue that Verizon has failed to provide a sufficient explanation of the costs it claims it will have to bear to implement portability and has made no attempt to identify the benefits of portability for consumers.⁴⁷ Wireless resellers also oppose Verizon's request for permanent forbearance, arguing that wireless LNP is critical to maintaining a vibrant resale market.⁴⁸

II. DISCUSSION

A. Forbearance Analysis Under Section 10

14. Section 10(a) of the Act provides that the Commission must forbear from applying any regulation or provision of the Act to a telecommunications carrier if the Commission determines that:

⁴¹ Letter from Laura H. Phillips, Counsel for Nextel Communications, Inc., to Magalie Roman Salas, Secretary, FCC, at 2 (filed Jan. 22, 2002) (*Nextel Ex Parte*).

⁴² Letter from Luisa L. Lancetti, Vice President, Regulatory Affairs – PCS, to Magalie Roman Salas, Secretary, FCC (filed Jan. 18, 2002) (*Sprint Ex Parte*).

⁴³ Letter from Suzanne K. Toller, Davis Wright Tremaine LLP, to Magalie Roman Salas, Secretary, FCC (filed Jan. 18, 2002) (*AT&T Ex Parte*).

⁴⁴ See, e.g., Michigan Commission Comments at 1-2; NARUC Comments at 3; New Hampshire Commission Comments at 10; New York Commission Comments at 2; Pennsylvania Commission Reply Comments at 5-8; and State Coordination Group Comments at 4.

⁴⁵ See, Maryland Commission Comments at 2; NARUC Comments at 2-3; Ohio Commission Comments at 4; Texas Commission Comments at 2-3.

⁴⁶ See, California Commission Comments at 9-10; Connecticut Commission Comments; Iowa Commission Comments at 2; New Hampshire Commission Comments at 10-12; New York Commission Comments at 3; Ohio Commission Comments at 4-8; State Coordination Group Comments at 4; Texas Commission Comments at 4. See also Letter from Loretta M. Lynch, President, California PUC, to Michael Powell, Chairman, FCC at 1, 3-4 (filed Nov. 19, 2001) (*California Ex Parte*); Letter from James Bradford Ramsay, NARUC, General Counsel, to Michael Powell, Chairman, FCC, at 1-2 (filed Nov. 29, 2001) (*NARUC Ex Parte*).

⁴⁷ See, California Commission Comments at 14-18; Iowa Commission Comments at 3; New Hampshire Commission Comments at 3-6, 8-9; State Coordination Group Comments at 5-8.

⁴⁸ ASCENT Comments at 13-14; WorldCom Comments at 8-9.

- (1) enforcement of such regulation is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable, and are not unjustly or unreasonably discriminatory;
- (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and
- (3) forbearance from applying such provision or regulation is consistent with the public interest.⁴⁹

If we determine that there is competition in the wireless market, we then must determine whether the LNP requirements are still warranted under the standards set out in section 10. Although there has been growth in competition in the wireless industry, we find that permanent forbearance is not justified under the second and third prongs of the section 10 forbearance test; *i.e.* we conclude that LNP requirements for wireless carriers are necessary to protect consumers and are consistent with the public interest.⁵⁰ We therefore deny the Verizon petition for permanent forbearance, as discussed below.

1. Consumer Protection

15. The second prong of the section 10 forbearance test requires that we determine whether enforcement of the wireless number portability requirements is necessary for the protection of consumers. Verizon argues that sustained competitive pressure encourages CMRS providers to maximize consumer satisfaction.⁵¹ Verizon explains that customers who are dissatisfied with their wireless service frequently switch service providers even in the absence of LNP.⁵² Moreover, Verizon asserts that sections 201 and 202 of the Act already ensure sufficient consumer protection.⁵³ Opponents of Verizon's petition argue that wireless LNP is necessary to protect those wireless consumers who would otherwise be prevented from changing service providers because of their unwillingness to give up their telephone number.⁵⁴

16. *Discussion.* We conclude that a permanent forbearance from the LNP requirements for CMRS carriers is not consistent with the protection of consumers. In the *1999 Forbearance Order*, the Commission found that immediate implementation of the LNP requirements was not necessary to protect consumers because evidence showed that demand for LNP among consumers was low and that consumers were routinely switching among wireless carriers even without LNP.⁵⁵ The Commission emphasized, however, that it continued to view wireless LNP as providing important benefits to consumers.⁵⁶ The Commission found that although extending the LNP implementation deadline until November 2002

⁴⁹ 47 U.S.C. § 160(a). Section 10(b) of the Act provides that, in making the determination about whether forbearance would be consistent with the public interest, the Commission "shall consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services." 47 U.S.C. § 160(b).

⁵⁰ Because we conclude that Verizon's request fails the second and third prongs of section 10, we need not address whether the LNP requirement is necessary under the first prong set forth in section 10(a)(1). 47 U.S.C. § 160(a)(1).

⁵¹ *Verizon Wireless Forbearance Petition* at 22.

⁵² *Id.* 22-23.

⁵³ *Id.* at 23. Section 201 of the Act requires carriers to provide service on terms that are just and reasonable. Section 202 prohibits carriers from engaging in unreasonable discrimination. See 47 U.S.C. §§ 201-202.

⁵⁴ California Commission Comments at 9.

⁵⁵ *1999 Forbearance Order*, 14 FCC Rcd at 3103, para. 22.

⁵⁶ *Id.* at para. 23

would not harm consumers, it was likely that, in the longer term, wireless number portability would become an increasingly important issue for consumers.⁵⁷ The Commission anticipated that, as wireless service rates continued their downward trend, there would be a greater likelihood that consumers would view their wireless phones as a potential substitute for their wireline phones and thus the ability of consumers to port their numbers was likely to become an increasingly important factor in consumer choice.⁵⁸

17. We find that the market is developing along the lines anticipated in the *1999 Forbearance Order*. Many wireless consumers are beginning to change the way in which they use their wireless phones. For example, carriers have begun to offer pricing plans providing large buckets of air time for a fixed monthly rate.⁵⁹ Some commenters contend that subscribers on these plans, motivated to use all of their allotment of minutes, use their cell phones for incoming calls more frequently and give out their cell phone numbers more freely.⁶⁰ Indeed, recent data shows a 51 percent increase in minutes of use for wireless subscribers during the period of July through December between 2001 and 2000.⁶¹ Other evidence demonstrates that wireless-wireline competition, while still limited, is increasing. A survey by the Yankee Group, for instance, found that about three percent of mobile telephone subscribers rely on their wireless phone as their only phone and another survey conducted by the Consumer Electronics Association found that three in ten wireless phone users say that they would rather give up their home telephone than their wireless phone.⁶² In addition, a USA Today/CNN/Gallup poll found that 18 percent of wireless phone owners use their wireless phone as their primary phone.⁶³ In the *Seventh Annual CMRS Competition Report*, we also found data suggesting that wireless plans are substituting for traditional wireline long distance.⁶⁴ For example, we noted one analyst's claim that 20 percent of AT&T's customers, or 5 million people, have replaced some wireline long distance usage with wireless. We also found that an increasing number of wireless carriers offer service plans designed to compete directly with wireline local telephone service.⁶⁵

18. As these trends continue, and as wireless service subscribers increase the frequency with which they give out their mobile telephone number, we anticipate that an increasing number of consumers will be reluctant to change wireless service providers unless they can keep the same number.⁶⁶ Unless LNP is available, increasing numbers of wireless service consumers - especially those who routinely

⁵⁷ *Id.*

⁵⁸ *Id.* at 3103-04.

⁵⁹ WorldCom Comments at 5-6. See also Linda J. Mutschler *et al.*, *The Next Generation VI: Wireless in the US*, United States Telecom Services-Wireless/Cellular, Merrill Lynch, Mar. 8, 2002 at 57-63.

⁶⁰ *Id.*

⁶¹ June 2001 CTIA Survey (minutes of use through 2000), at 169; Todd Rethemeier *et al.*, *Talk is Cheaper, Demand is Steeper*, Bear Sterns, Equity Research, May 21, 2002, at 1 (citing CTIA 2001 MOU results). CTIA aggregated all of the carriers' MOUs from July 1 through December 31, then divided by the average number of subscribers, and then divided by six.

⁶² Judy Saries, *Wireless Users Hanging Up on Landline Phones*, NASHVILLE BUSINESS JOURNAL, Feb. 2, 2001; *Will Wireless Phones Make Traditional Home Telephones Obsolete?*, News Release, Consumer Electronics Association, Apr. 6, 2000.

⁶³ Michelle Kessler, *18% See Cellphones As Their Main Phones*, USA TODAY, Feb. 1, 2002, at B1.

⁶⁴ Implementation of Section 6002(b) of the Omnibus Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, *Seventh Report*, FCC 02-179 at 34 (rel. July 3, 2002) (*Seventh CMRS Competition Report*).

⁶⁵ *Id.*

⁶⁶ WorldCom Comments at 5-6.

provide their wireless number to others - will find themselves forced to stay with carriers with whom they may be dissatisfied because the cost of giving up their wireless phone number in order to move to another carrier is too high. In fact, several hundred consumers have filed comments indicating that they already feel restricted in switching among carriers because of their inability to take their number with them.⁶⁷ Similarly, as more consumers choose to use wireless instead of wireline services, the inability to transfer their wireline number to a wireless service provider may slow the adoption of wireless by those consumers that wish to keep the same telephone number they had with their wireline service provider. As the Commission found in the *1999 Forbearance Order*, we continue to view wireless LNP as providing important benefits to consumers. We find that by denying permanent forbearance from the wireless LNP requirements, we ensure that as the wireless industry continues to mature, and wireless subscribers become significantly more invested in their phone numbers, they will be able to experience the benefits of LNP.

2. Public Interest

19. The third prong of the section 10 forbearance standard requires us to consider whether forbearance is consistent with the public interest. Verizon argues that permanent forbearance will not impair the public interest in competition because sufficient competition exists in the wireless industry without LNP and because there is no evidence that LNP will actually bring about increased levels of competition.⁶⁸ Verizon also argues that permanent forbearance will allow carriers to continue to focus their resources on further buildout of their networks.⁶⁹ Finally, Verizon claims that forbearance will allow carriers to focus on pooling and thus will serve the public interest in conservation of numbering resources.⁷⁰

20. *Discussion.* In the *1999 Forbearance Order*, the Commission determined that temporary forbearance at that time was consistent with the public interest for both competitive and technical reasons. In rejecting requests for permanent forbearance, however, the Commission found that the competitive reasons that led it to require wireless LNP in the *First Report and Order* remained fundamentally valid.⁷¹ The Commission indicated that the wireless LNP requirements were intended to increase competition both within the CMRS marketplace and with wireline carriers, which in turn would provide incentives for all carriers to provide innovative service offerings, higher quality services, and lower prices.⁷² The Commission affirmed these findings on reconsideration.⁷³ We remain convinced that wireless LNP will result in these competitive benefits in the long term. Accordingly, we find that permanent forbearance is not in the public interest.

21. Moreover, as the Commission discussed in the *1999 Forbearance Order*⁷⁴ and on

⁶⁷ Some of these consumers have noted that, in determining whether to switch carriers, they must consider costs associated with replacing business cards and stationery. See e.g., Comment from Alan Martin (filed Jan. 29, 2002); Comment from Alan Furman (filed Nov. 28, 2001); Comment from Robert F. Bergen (filed Nov. 28, 2001); Comment from Thomas A. Goodman (filed Nov. 28, 2001); Comment from Kristine Mighion (filed Feb. 1, 2002); Comment from Chris Britton (filed Feb. 7, 2002); and Comment from Mark Matthews (filed Feb. 7, 2002).

⁶⁸ *Verizon Wireless Forbearance Petition* at 26.

⁶⁹ *Id.* at 25.

⁷⁰ *Id.* at 29-30.

⁷¹ *1999 Forbearance Order*, 14 FCC Rcd at 3112, para. 40.

⁷² *Id.* at 3112-13.

⁷³ *Order on Reconsideration* 15 FCC Rcd at 4733, para. 12.

⁷⁴ *1999 Forbearance Order*, 14 FCC Rcd at 3113, para. 41.

reconsideration, we are not convinced that market forces would ensure implementation of LNP. Although certain carriers may want all wireless carriers to implement LNP because they believe it will result in a net gain of subscribers, other carriers may feel differently and will not have any incentive to implement LNP because they may be convinced that industry-wide LNP will only serve to make it easier for their subscribers to leave them. Consequently, it is unlikely for the entire industry to agree to move to wireless LNP voluntarily. In addition, there may be economic disincentives for any individual carrier to be the first to voluntarily adopt full LNP, which would provide its subscribers the flexibility to switch to a different carrier while retaining their current phone numbers. This is because, absent the implementation of full LNP by other wireless carriers, that carrier could not gain any new wireless customers from the non-participating wireless carriers. As a result, to ensure that consumers have the ability to switch carriers while retaining their phone numbers, we must require wireless carriers to implement LNP.

22. As discussed above, wireless phone numbers have become more important to consumers. Consumers taking advantage of flat rate pricing plans are using their wireless phones more frequently and giving out their wireless phone numbers more freely. For these consumers, the inability to take their wireless phone number with them is an additional impediment to these consumers switching service providers.⁷⁵ Maintaining LNP requirements, by contrast, will eliminate this disincentive to switching among carriers and consumers will be free to choose among carriers based on factors such as price, service, and coverage. Competitive pressure on carriers will intensify, as carriers will be forced to compete on the basis of the price and quality of the service they offer to consumers, without regard to a customer's phone number. Maintaining LNP requirements will also make it easier for newer carriers to offer service to existing wireless consumers who would switch carriers but for lack of ability to port their wireless phone number.⁷⁶

B. Extension of LNP Deadline

23. Although we find that permanent forbearance from the wireless LNP requirements would not be consistent with the public interest, as we discuss above in section III. A., we find that a limited extension of the LNP implementation deadline is warranted. We emphasize that our action here should not be interpreted as diminishing our view that wireless number portability is an increasingly important factor in consumer choice. We find that extending the LNP implementation deadline for a period of one year until November 24, 2003, is warranted to provide adequate time to resolve all outstanding LNP implementation issues, including personnel training and other non-technical issues, and critically, public safety coordination. The extension will allow carriers to focus on the successful implementation of thousands-block number pooling and to guard against any potential network disruptions that might result from simultaneous implementation of thousands-block number pooling and porting.

24. Carriers have submitted evidence demonstrating that implementation of the network architecture necessary for pooling is particularly complex for wireless carriers because of the mobile nature of wireless service and the need to support roaming.⁷⁷ Particularly, carriers have indicated that separation of the Mobile Directory Number (MDN) and Mobile Identification Number (MIN) will require changes to a large number of systems and must be accomplished by every wireless carrier, including

⁷⁵ See Letter from Michael Mowery, General Counsel, Telephia to Magalie Roman Salas, Secretary, FCC (filed Jan. 22, 2002) (noting that 40% of respondents to Telephia survey questionnaire selected "I don't want to change my current phone number" as one reason for remaining with their current carrier).

⁷⁶ See Leap Wireless Comments at 4; Nextel Comments at 2; WorldCom Comments at 8. See also, Letter from James F. Barker, Latham & Watkins on behalf of Leap Wireless, to William F. Caton, Acting Secretary, FCC (filed Feb. 12, 2002) (submitting declaration from Dr. Peter Crampton, Professor of Economics at the University of Maryland).

⁷⁷ AT&T Comments at 11.

those operating in markets where pooling will not initially be implemented, by November 24, 2002, to support roaming with pooled numbers nationwide.⁷⁸ By extending the deadline for implementation of wireless LNP for one year, we allow carriers to focus on successfully completing all of the tasks necessary for pooling. We note that wireless carriers have committed to participating in thousands-block number pooling by November 24, 2002, and have also indicated that they will devote considerable resources to correct the unforeseen technical challenges surrounding a successful implementation.⁷⁹ We fully expect wireless carriers to fulfill this commitment.

25. In addition, evidence from the record shows that delays in the delivery of switch software by some vendors have compressed the LNP implementation schedule, thereby reducing the time available to conduct inter-carrier testing.⁸⁰ Carriers assert that the limited period of inter-carrier testing that would be permitted under the current schedule jeopardizes the successful implementation of porting and increases the difficulty of simultaneous implementation of porting and pooling.⁸¹ Carriers have also expressed concern over whether their networks will be prepared to handle the querying volumes associated with porting and pooling transactions.⁸² AT&T, for example, notes that total CMRS porting and pooling volumes have been estimated to be as much as 78.6 million in 2003.⁸³ Carriers worry that if their networks are not sufficiently prepared to handle the combined volumes from porting and pooling, pooling efforts will be adversely affected because calls will not route properly to pooled blocks, making them unusable as a number resource until problems are resolved.⁸⁴ To guard against any potential network disruptions, we find that extending the deadline for implementation of LNP for a period of one year is appropriate and adequate. We find that a one year extension is reasonable because it not only provides a transition period between implementation of thousands-block number pooling and porting but also allows carriers time to observe and correct any problems that may occur after pooling is implemented before having to implement LNP.⁸⁵

⁷⁸ AT&T Comments at 12; *Verizon Wireless Forbearance Petition* at Appendix 5.

⁷⁹ See Testimony from Ms. Anna Miller, Director of Numbering Policy, VoiceStream Wireless, on behalf of CTIA, to the Subcommittee on Telecommunications and the Internet, June 26, 2002.

⁸⁰ AT&T Comments at 15-16.

⁸¹ AT&T Reply Comments at 11.

⁸² AT&T Comments at 17; Cingular Comments at 19; VoiceStream and US Cellular Comments at 15-16.

⁸³ *AT&T Ex Parte* at 3.

⁸⁴ *Id.* at 5. We note that in a recent ex parte filing, CTIA has also expressed concern about the ability of the Number Portability Administration Center (NPAC) to handle the volume of number ports that will result from wireless LNP. See Letter from Michael Altschul, Senior Vice President, Regulatory Affairs and General Counsel, CTIA, to Tom Sugrue, Chief, Wireless Telecommunications Bureau, and Dorothy Attwood, Chief, Wireline Competition Bureau (filed Mar. 28, 2002). In response to CTIA's filing, Neustar indicated that the NPAC would be prepared to handle anticipated porting volume. See Letter from Joseph F. Franlin, Senior Vice President, Operations, Neustar, to Tom Sugrue, Chief, Wireless Telecommunications Bureau, and Dorothy Attwood, Chief, Wireline Competition Bureau (filed Apr. 2, 2002). We find that Neustar will be able to handle increased pooling and porting volumes as a result of CMRS carriers' participation in number pooling and number portability.

⁸⁵ We note that, while not addressing the merits of Verizon's petition for forbearance, APCO, NENA, and NASNA have expressed concern about potential degradation of 911 services for customers who port numbers, and urge the Commission to enforce the LNP performance criteria set forth in section 52.23 of the Commission's rules. See Letter from James R. Hobson, Counsel for NENA, to Magalie Roman Salas, Secretary, FCC (filed Jan. 30, 2002) at 2-3. While we recognize these concerns, to the extent that wireless carriers are deploying automatic location identification technology in their networks according to compliance plans approved by the Commission, we conclude that they will satisfy the performance criteria in section 52.23 with respect to provision of emergency services.

26. We note that some states oppose a grant of any extension because of doubts about whether CMRS carriers will be able to fully participate in pooling before implementing LNP.⁸⁶ These states are concerned that Verizon and the other CMRS carriers propose some form of limited pooling that would result in number pools available to only one particular carrier, number pools segregated by type of carrier, or CMRS carriers not being able to donate numbers to pools.⁸⁷ Evidence from the record suggests that these concerns are unfounded. Although previously, the Commission indicated that implementation of LNP was a necessary precursor to the implementation of number pooling,⁸⁸ evidence from the record now leads us to conclude that it is technically possible for wireless carriers to fully participate in pooling before implementing LNP.⁸⁹ Specifically, we have found that it is not number portability itself, but rather the location routing number (LRN) network architecture that is necessary to establish pooling capability.⁹⁰ The majority of the CMRS carriers submitting comments agree that once CMRS carriers establish an LRN network architecture they may fully participate in pooling.⁹¹ CMRS carriers have made assurances that they will be able to donate and utilize blocks of numbers from all carrier types within a given rate center and there will be no need for separate pools by carrier or type of carrier.⁹² Moreover, carriers commit to being able to participate in other numbering optimization methods that are dependent on LRN network architecture, such as unassigned number porting (UNP) and individual telephone number pooling (ITN), should the Commission require utilization of those conservation measures at some point in the future.⁹³

27. We also note that some states argue that portability is necessary to help address the problem of numbers associated with wireless churn being stranded during the aging process.⁹⁴ In its comments, NARUC explains that the telephone numbers of consumers switching wireless carriers are typically stranded for a period of 45 days after the carrier winning the customer assigns the customer a new number.⁹⁵ The subscriber's original number is held in reserve and cannot be immediately reassigned. NARUC contends if CMRS carriers were required to port some of these numbers, there would be significant numbering resource savings.⁹⁶ Although we agree that portability could help relieve this

⁸⁶ See NARUC Comments at 3; New Hampshire Commission Comments at 10; New York Commission Comments at 2-3.

⁸⁷ New Hampshire Commission Comments at 10; New York Commission Comments at 2-3.

⁸⁸ See, e.g., *1999 Forbearance Order*, 14 FCC Rcd at 3113, para. 43; *Order on Reconsideration*, 15 FCC Rcd 4732-33, para. 11; *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7633-34, paras. 136-37.

⁸⁹ AT&T Wireless Comments at 3-4; Cingular Wireless Comments at 15-16; Sprint Comments at 7-8; *Verizon Wireless Forbearance Petition* at 9-11; VoiceStream and US Cellular Comments at 10.

⁹⁰ *Id.* Under the LRN network architecture, a unique ten-digit number – the location routing number or LRN – is assigned to each central office switch to identify each switch in the network for call routing purposes. The LRN then serves as a network address. See Telephone Number Portability, CC Docket No. 95-116, *Second Report and Order*, 12 FCC Rcd 12281, 12288 (1997).

⁹¹ AT&T Wireless Comments at 3-4; Cingular Wireless Comments at 15-16; Sprint Comments at 7-8; *Verizon Wireless Forbearance Petition* at 9-11; VoiceStream and US Cellular Comments at 10. *But see*, Mid-Missouri Cellular Comments at 15-20; Public Service Cellular Comments at 11-16, arguing that MIN/MDN separation, which, according to the majority of carriers, is a critical element of the LRN infrastructure, is not necessary for pooling.

⁹² AT&T Reply Comments at 15; Verizon Wireless Reply Comments at 21.

⁹³ AT&T Reply Comments at 15-16.

⁹⁴ NARUC Comments at 2-3; Ohio Commission Comments at 4; Texas Commission Comments at 2-3; Maryland Commission Comments at 2.

⁹⁵ NARUC Comments at 2.

⁹⁶ *Id.*

problem, evidence from the record indicates that the resulting savings in numbering resources would not be significant enough to justify the imposition of LNP requirements prior to the expiration of the limited period of extension we adopt today to address this problem. For example, AT&T estimates that only 2.7% of the numbers in its inventory are held in the aging category at any given time.⁹⁷ In addition, our June 30, 2001, Numbering Resource Utilization data shows that only 4% of all numbers held by wireless carriers were in the aging category.⁹⁸ Moreover, as Cingular points out, there are administrative restrictions on CMRS carriers' ability to obtain additional numbering resources that would prevent them from obtaining additional numbers based on an inventory of aging disconnected numbers.⁹⁹

28. We reject requests for a longer extension. Several carriers argue that, if the Commission determines that permanent forbearance from the wireless LNP requirements is not appropriate, it should, at a minimum, extend the LNP implementation deadline for a period of anywhere between eighteen months to three years.¹⁰⁰ We decline to permit such a delay in the implementation of wireless LNP.¹⁰¹ As discussed above, we find that wireless number portability will promote competition by making it easier for consumers to switch carriers to pursue better features, coverage, and prices. Delay beyond the one year period we adopt today could impair the development of competition unnecessarily and harm consumers. Carriers have also expressed concern about making LNP-related system-wide changes to their network during their busy holiday sales season, i.e., during the months of November and December.¹⁰² We are not persuaded that these concerns justify allowing an extension beyond the one year period we adopt today. Nothing prevents carriers from implementing portability before the November 24, 2003, deadline if they are concerned about making changes to their networks during their busy holiday sales season.

29. We are not persuaded that the costs of LNP will outweigh the benefits consumers will experience from the ability to switch carriers while retaining the same number. Although supporters of Verizon's petition argue that the costs associated with LNP will be significant,¹⁰³ other parties have submitted evidence indicating that the relative cost of implementing LNP will be low. For example, using Cingular's estimate that it will have on-going annual costs associated with LNP of \$50 million, ASCENT notes that this cost would be spread across a subscriber base of roughly 30 million subscribers,

⁹⁷ AT&T Reply Comments at 16.

⁹⁸ See FCC, Common Carrier Bureau, Industry Analysis Division, *Numbering Resource Utilization in the United States as of June 30, 2001*, Table 1 (November 2001) (*November 2001 Numbering Resource Utilization Report*). This report may be downloaded (filename:utilizationjune2001.pdf) from the FCC-State Link Internet site at <<http://www.fcc.gov/ccb/stats>>.

⁹⁹ Cingular Reply Comments at 17.

¹⁰⁰ See Letter from Suzanne K. Toller, Davis Wright Tremaine LLP on behalf of AT&T Wireless, to Magalie Roman Salas, Secretary, FCC (filed Jan. 18, 2002) (recommending that Commission forbear from wireless LNP for minimum of 30 months); Letter from Luisa L. Lancetti, Sprint, to Magalie Roman Salas, Secretary, FCC (filed Jan. 18, 2002) (recommending forbearance from wireless LNP for at least three years); Letter from Diane J. Cornell, CTIA, to Magalie Roman Salas (filed Dec. 5, 2001) (recommending that, at minimum, Commission should extend porting deadline for two years); and Letter from Laura H. Phillips, Counsel for Nextel, to Magalie Roman Salas, Secretary, FCC (filed Jan. 22, 2002) (recommending that Commission adopt transition period between implementation of porting and pooling of between eighteen to twenty-four months).

¹⁰¹ Because we adopt a blanket one year extension of the LNP implementation deadline, we do not address the proposal from Leap Wireless contained in their July 9, 2002 ex parte letter. See, Letter from Harvey P. White, Chairman & CEO, Leap Wireless to Michael Powell, Chairman, FCC (filed July 9, 2002).

¹⁰² ALLTEL Comments at 7-8.

¹⁰³ See Cingular Comments at 4; Sprint Comments at 6; and Verizon Wireless Reply Comments at 17.

resulting in a per-subscriber monthly assessment of 10 to 20 cents.¹⁰⁴ Moreover, Leap Wireless notes that costs associated with LNP will be small compared to other expenses for operations and network upgrades.¹⁰⁵ Citing Sprint's estimate that it will need to spend \$26 million to implement LNP, Leap notes that Sprint spent \$3.327 billion on capital expenditures last year.¹⁰⁶ Leap states that Sprint's LNP cost would represent a fraction of one percent of its capital expenditures for a single year.¹⁰⁷ We therefore find that the consumer benefits of LNP justify imposing these costs on wireless carriers.¹⁰⁸

30. We are not persuaded by arguments that a longer extension of the LNP implementation deadline is necessary to allow wireless carriers to focus on compliance with other regulatory requirements.¹⁰⁹ Wireless carriers have in fact already received extensions of time to develop and implement technology associated with E911 and CALEA. For example, as of October 2001, the top six nationwide carriers had received waivers of the Commission's E911 rules¹¹⁰ and were granted additional time to deploy handsets with automatic location identification (ALI) capability. In addition, with respect to CALEA,¹¹¹ a number of carriers have received additional time to implement core capabilities under the J-standard. Considering that this relief allows carriers, in the near term, to devote resources that were dedicated to compliance with these requirements to other endeavors, we find that requiring wireless carriers to deploy LNP after the expiration of the limited extension period we adopt today will not impose an undue burden. Because of the preceding findings, absent extraordinary circumstances, we expect wireless carriers to comply with the schedule set forth in this Order. We would be generally circumspect about granting any additional requests for more time especially if such requests make the same arguments addressed herein.

31. Under the terms of the extension we adopt today, a CMRS carrier located in one of the largest 100 MSAs that receives a request¹¹² by February 24, 2003, from another carrier to allow end-users to port their telephone numbers, must be capable of doing so by November 24, 2003.¹¹³ After November 24,

¹⁰⁴ ASCENT Reply Comments at 13.

¹⁰⁵ Leap Wireless Reply Comments at 12.

¹⁰⁶ *Id.* at 13. Sprint later estimated its costs to install LNP to be over \$86 million. *Sprint Ex Parte* at 5.

¹⁰⁷ *Id.*

¹⁰⁸ We note that Leap Wireless, Cox Communications, and WorldCom have suggested that, instead of granting forbearance, the Commission should require wireless carriers to implement the capability to "port out" numbers but remove the requirement that carriers be able to "port in" numbers. See Cox Comments at 13-14, and Letter from Tally Frenkel, Associate Attorney, WorldCom, to Magalie Roman Salas, Secretary, FCC (filed Nov. 30, 2001). We do not adopt this approach because, as indicated above, we find that the consumer benefits of LNP justify imposing the associated costs on carriers. Moreover, there is insufficient evidence in the record for us to conclude that the technical requirements for the approach suggested by these parties are appreciably different from those for full LNP, or that it would result in significant cost savings.

¹⁰⁹ See e.g., ALLTEL Comments at 8-10.

¹¹⁰ See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Request for Waiver by AT&T Wireless Services, Inc., *Order*, 16 FCC Rcd 18253 (2001); Request for Waiver by Cingular Wireless LLC, *Order*, 16 FCC Rcd 18305 (2001); Wireless E911 Phase II Implementation Plan of Nextel Communications, Inc., *Order*, 16 FCC Rcd 18277 (2001); Request for Waiver by Sprint Spectrum L.P. d/b/a Sprint PCS, *Order*, 16 FCC Rcd 18330 (2001); and Request for Waiver by Verizon Wireless, *Order*, 16 FCC Rcd 18364 (2001), *Fourth Memorandum Opinion and Order*, 15 FCC Rcd 17442 (2000).

¹¹¹ See 47 U.S.C. § 1001 et seq.

¹¹² Requests to allow end-users of one wireless carrier to port their telephone numbers to another carrier are made on a per-switch basis in the scenarios described in this paragraph. See 47 C.F.R. § 52.31 (a)(1).

¹¹³ Because we extend the date by which carriers must provide LNP, the date by which carriers must submit requests for deployment is also extended by one year, until February 24, 2003. See 47 C.F.R. § 52.31 (a)(1)(ii). We note that
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(continued...)

2003, wireless carriers in the largest 100 MSAs must be capable of allowing end-users to port their telephone numbers if another carrier has made a request for portability. Such carriers must do so within 30 to 180 days of the request, depending on the nature of the changes required to the particular switch.¹¹⁴ Outside the largest 100 MSAs, CMRS carriers that receive a request to allow end users to port their telephone numbers must be capable of doing so within six months after receiving the request or within six months after November 24, 2003, whichever is later.¹¹⁵ This extension of LNP mandates does not alter CMRS carriers' obligation to participate in thousands-block number pooling by November 24, 2002. In addition, this extension does not change the requirement that all CMRS carriers must support roaming nationwide for customers with pooled numbers by November 24, 2002. That is, if a customer with a pooled number roamed into another CMRS carrier's network, that CMRS carrier would support that customer's ability to make and receive calls.¹¹⁶

32. We note that several small rural carriers have argued that MIN/MDN separation is not necessary for wireless carriers to participate in pooling and that, if the Commission extends the implementation date for number portability, it should prevent carriers from using MIN/MDN separation to implement pooling.¹¹⁷ These carriers offered an alternative approach for allowing number pooling to proceed without the need for MIN/MDN separation. Because we only extend the LNP implementation deadline by one year and because there is insufficient evidence in the record for us to conclude that any alternative routing mechanisms these carriers propose are practicable, we see no reason to resolve this dispute in the context of the pending forbearance petition or to otherwise compel the wireless industry to consider any alternative approaches.¹¹⁸

33. Finally, we reject the requests of Vermont and California to recognize state authority to independently impose LNP requirements on CMRS carriers.¹¹⁹ Uniform, national rules for number portability are necessary to minimize confusion and additional expense related to compliance with inconsistent regulatory requirements.

III. CONCLUSION

34. We deny, in part, Verizon's request for permanent forbearance because we find that wireless LNP is necessary to preserve consumer choice and enhance competition among CMRS carriers and between the wireless and wireline industries. We find that extending the LNP implementation deadline is appropriate, however, to reduce burdens associated with the simultaneous implementation of porting and

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the Commission is currently considering whether to change its rules and extend LNP requirements to all carriers in the largest 100 MSAs, regardless of whether they receive a request to deploy LNP. *See* Numbering Resource Optimization, Telephone Number Portability, CC Docket No. 99-200, CC Docket No. 95-116, *Third Order on Reconsideration in CC Docket No. 99-200, Third Further Notice of Proposed Rulemaking in CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 95-116*, FCC 02-73 (rel. Mar. 14, 2002).

¹¹⁴ *See* 47 C.F.R. § 52.31 (a)(1)(iv).

¹¹⁵ *See First Memorandum Opinion and Order*, 12 FCC Rcd at 7314, para. 137.

¹¹⁶ *See* 47 C.F.R. §§ 20.12(c), 52.31(a)(2).

¹¹⁷ *See Ex Parte Comments from Missouri RSA No. 7 Limited Partnership, Illinois Valley Cellular Partnerships, Public Service Cellular, Farmers Cellular Telephone, and Northwest Missouri Cellular Limited Partnership* (filed Mar. 26, 2002).

¹¹⁸ We note that carriers choosing not to implement the industry selected MIN/MDN separation solution are not excused from their obligation to deliver valid call back numbers to Public Safety Answering Points (PSAPs), in accordance with the Commission's enhanced 911 (E911) rules. *See* 47 C.F.R. § 20.18(d).

¹¹⁹ Vermont Commission Comments at 3, 5-8; California Commission Reply Comments at 10-11.

pooling and we extend the LNP implementation deadline for a period of one year until November 24, 2003. The actions we take here will help ensure that our critical numbering resource optimization goals are met while at the same time advancing the achievement of our equally important competition policy and consumer protection goals.

IV. ORDERING CLAUSES

35. Accordingly, IT IS ORDERED THAT, pursuant to sections 4(i) and 10 of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i) and 160, the Petition for Forbearance filed by Verizon Wireless on July 26, 2001, is DENIED to the extent stated herein.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

Kunkel, Mark

From: Plona, Katie
Sent: Tuesday, August 12, 2003 10:17 AM
To: Kunkel, Mark
Subject: Change to LRB 1280/1

Mark,

LRB 1280/1 is the number portability draft you did for Rep. Schooff several months ago. Now that a federal appeals court upheld the FCC rule that will require wireless providers to provide number portability, we have a slight change to make before we introduce this bill.

Can you please change the effective date of this bill from November 24, 2003 to the date on which the FCC mandate for number portability goes into effect. So, for instance, if the FCC ruling doesn't get delayed again this November, the bill would go into effect then, but if it gets pushed back and goes into effect at a later date, the bill would go into effect on that later date.

Please call me if you have any questions. Otherwise, please send a re-draft when you have made the change. Please send an electronic copy.

Thanks, Katie

Katie Plona
Rep. Dan Schooff's Office
(608) 266-9967 (phone)
(608) 282-3645 (fax)

2003 BILL

Today
by
4:30

RM
has
been
seen

to provide
number
portability

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 a customer to retain existing telephone numbers at the same location 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.

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as one
of

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, the Federal Communications Commission has ordered wireless telecommunications providers to begin providing number portability in the 100 largest MSAs by November 24, 2003. 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, 2003. The duty applies

INSERT 1A

BILL

only if a customer of a wireless telecommunications provider switches to another telecommunications provider in the same area code. In addition, 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 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.

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 in the same area code to
16 retain the telephone numbers that the customer used with that commercial mobile
17 radio service provider. *Beginning on the date specified in par (c),*

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.

INSERT 2-20

BILL

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SECTION 3. Effective date.
(1) This act takes effect on November 24, 2003.

(END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1280/2ins
MDK:.....

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INSERT 1A:

, unless a subsequent date is established under federal law as the FCC's deadline for providing number portability in the 100 largest MSAs. If such a subsequent date is established, the bill requires wireless telecommunications providers to begin providing number portability in all areas of the state on that date

2

INSERT 2-20:

3

(c) The duty to comply with par. (b)[✓] begins on November 24, 2003, unless a

4

subsequent date is established under federal law as the implementation deadline for

5

the federal communication^s_λ commission's regulations on wireless local telephone

6

number portability. If such a date is established, the duty to comply with par. (b)[✓]

7

begins on that date.

Emery, Lynn

From: Plona, Katie
Sent: Friday, September 05, 2003 3:48 PM
To: LRB.Legal
Subject: Draft review: LRB 03-1280/2 Topic: Telephone number portability for wireless customers

It has been requested by <Plona, Katie> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-1280/2 Topic: Telephone number portability for wireless customers

**METROPOLITAN STATISTICAL AREAS
MICROPOLITAN STATISTICAL AREAS
COMBINED STATISTICAL AREAS
NEW ENGLAND CITY AND TOWN AREAS
COMBINED NEW ENGLAND CITY AND TOWN AREAS**

2003

Lists 1 through 8

**Statistical and Science Policy Branch
Office of Information and Regulatory Affairs
Office of Management and Budget**

Metropolitan Statistical Areas, Micropolitan Statistical Areas, Combined Statistical Areas, New England City and Town Areas, and Combined New England City and Town Areas -- 2003

1. Brief Overview of the Classification

The Office of Management and Budget (OMB) published the Standards for Defining Metropolitan and Micropolitan Statistical Areas in a *Federal Register* Notice (65 FR 82228 - 82238) on December 27, 2000. That Notice also provides information on the multi-year public review process that preceded the adoption of the standards, and an explanation of the key terms used in the standards. The 2000 standards replace and supersede the 1990 standards for defining Metropolitan Areas. OMB's 2000 standards provide for the identification of the following statistical areas in the United States and Puerto Rico:

- Metropolitan Statistical Areas
- Micropolitan Statistical Areas
- Metropolitan Divisions
- Combined Statistical Areas
- New England City and Town Areas
- New England City and Town Area Divisions
- Combined New England City and Town Areas

Metropolitan Statistical Areas have at least one urbanized area of 50,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties. Micropolitan Statistical Areas – a new set of statistical areas – have at least one urban cluster of at least 10,000 but less than 50,000 population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties. Metropolitan and Micropolitan Statistical Areas are defined in terms of whole counties (or equivalent entities), including in the six New England States. If the specified criteria are met, a Metropolitan Statistical Area containing a single core with a population of 2.5 million or more may be subdivided to form smaller groupings of counties referred to as Metropolitan Divisions.

The classification includes about 93 percent of the U.S. population – about 83 percent in metropolitan statistical areas and about 10 percent in micropolitan statistical areas. (Previously, the classification included about 80 percent of the U.S. population.) Of 3,142 counties in the United States (the 3,141 counties at the time of the 2000 decennial census plus Broomfield, Colorado, which became a county in November 2001), 1,090 will be in the 362 metropolitan statistical areas in the United States and 674 counties will be in micropolitan statistical areas (1,378 counties will remain outside the classification). (Previously, the classification included 847 metropolitan counties.)

In view of the importance of cities and town in New England, the 2000 standards also provide for a set of geographic areas that are defined using cities and towns in the six New England states. The New England City and Town Areas (NECTAs) are defined using the same criteria as Metropolitan and Micropolitan Statistical Areas and are identified as either metropolitan or micropolitan, based, respectively, on the presence of either an urbanized area of 50,000 or more population or an urban cluster of at least 10,000 but less than 50,000 population. If the specified criteria are met, a New England City and Town Area containing a single core with a population of at least 2.5 million may be subdivided to form smaller groupings of cities and towns referred to as New England City and Town Area Divisions.

If specified criteria are met, adjacent Metropolitan and Micropolitan Statistical Areas, in various combinations, may become the components of a new set of areas called Combined Statistical Areas. For instance, a Combined Statistical Area may comprise two or more Metropolitan Statistical Areas, a Metropolitan Statistical Area and a Micropolitan Statistical Area, two or more Micropolitan Statistical Areas, or multiple Metropolitan and Micropolitan Statistical Areas. The geographic components of

Combined New England City and Town Areas are individual metropolitan and micropolitan NECTAs, in various combinations. The areas that combine retain their own designations as Metropolitan or Micropolitan Statistical Areas (or NECTAs) within the larger Combined Statistical Area (or Combined NECTAs). Combinations for adjacent areas with an employment interchange of 25 or more are automatic. Combinations for adjacent areas with an employment interchange of at least 15 but less than 25 are based on local opinion as expressed through the Congressional delegations.

OMB's standards provide for the identification of one or more principal cities within each Metropolitan Statistical Area, Micropolitan Statistical Area, and NECTA. (The term "principal city" replaces "central city," the term used in previous standards.) Principal cities encompass both incorporated places and census designated places (CDPs). The decision to identify CDPs as principal cities represents a break with practice in previous standards that (with some exceptions) limited potential central city identification to incorporated places. In addition to identifying the more significant places in each Metropolitan and Micropolitan Statistical Area or NECTA in terms of population and employment, principal cities also are used in titling Metropolitan and Micropolitan Statistical Areas, Metropolitan Divisions, Combined Statistical Areas, NECTAs, NECTA Divisions, and Combined NECTAs.

The geographic components of Metropolitan and Micropolitan Statistical Areas and Metropolitan Divisions are counties and equivalent entities (boroughs and census areas in Alaska, parishes in Louisiana, municipios in Puerto Rico, and independent cities in Maryland, Missouri, Nevada, and Virginia). The counties and equivalent entities used in the definitions of the Metropolitan and Micropolitan Statistical Areas are those that were in existence as of January 1, 2000, with the exception of Broomfield County, Colorado.

The 2000 standards do not provide for the categorization of the areas based on total population comparable to Levels A – D under the 1990 standards.

This attachment includes the following eight lists that provide information on the statistical areas that are recognized under the 2000 standards using data from Census 2000:

- List 1 is an alphabetical list by title of 935 Metropolitan Statistical Areas and Micropolitan Statistical Areas.
- List 2 provides titles, definitions, principal cities, and Metropolitan Divisions for 370 Metropolitan Statistical Areas (362 in the United States and 8 in Puerto Rico). There are 49 new Metropolitan Statistical Areas that are identified in the list. There are 11 Metropolitan Statistical Areas that have a total of 29 Metropolitan Divisions.
- List 3 presents the titles, definitions, and principal cities for 565 Micropolitan Statistical Areas (560 in the United States and 5 in Puerto Rico).
- List 4 identifies 116 Combined Statistical Areas and their 315 component Metropolitan and/or Micropolitan Statistical Areas.
- List 5 identifies in each state the Metropolitan Statistical Areas, Metropolitan Divisions, Micropolitan Statistical Areas, and Combined Statistical Areas.
- List 6 provides titles, definitions, principal cities, and New England City and Town Area Divisions for 42 New England City and Town Areas.
- List 7 provides titles and definitions for 9 Combined New England City and Town Areas and their 25 component New England City and Town Areas.
- List 8 identifies in each state the New England City and Town Areas, the New England City and Town Area Divisions, and the Combined New England City and Town Areas.

- 33260 Midland, TX Metropolitan Statistical Area
Principal City: Midland
Midland County
- 33340 Milwaukee-Waukesha-West Allis, WI Metropolitan Statistical Area
Principal Cities: Milwaukee, Waukesha, West Allis
Milwaukee County, Ozaukee County, Washington County, Waukesha County
- 33460 Minneapolis-St. Paul-Bloomington, MN-WI Metropolitan Statistical Area
Principal Cities: Minneapolis, MN; St. Paul, MN; Bloomington, MN; Plymouth, MN;
Eagan, MN; Eden Prairie, MN; Minnetonka, MN
Anoka County, MN; Carver County, MN; Chisago County, MN; Dakota County,
MN; Hennepin County, MN; Isanti County, MN; Ramsey County, MN; Scott
County, MN; Sherburne County, MN; Washington County, MN; Wright County,
MN; Pierce County, WI; St. Croix County, WI
- 33540 Missoula, MT Metropolitan Statistical Area
Principal City: Missoula
Missoula County
- 33660 Mobile, AL Metropolitan Statistical Area
Principal City: Mobile
Mobile County
- 33700 Modesto, CA Metropolitan Statistical Area
Principal City: Modesto
Stanislaus County
- 33740 Monroe, LA Metropolitan Statistical Area
Principal City: Monroe
Ouachita Parish, Union Parish
- 33780 Monroe, MI Metropolitan Statistical Area (New)
Principal City: Monroe
Monroe County
- 33860 Montgomery, AL Metropolitan Statistical Area
Principal City: Montgomery
Autauga County, Elmore County, Lowndes County, Montgomery County
- 34060 Morgantown, WV Metropolitan Statistical Area (New)
Principal City: Morgantown
Monongalia County, Preston County
- 34100 Morristown, TN Metropolitan Statistical Area (New)
Principal City: Morristown
Grainger County, Hamblen County, Jefferson County
- 34580 Mount Vernon-Anacortes, WA Metropolitan Statistical Area (New)
Principal Cities: Mount Vernon, Anacortes
Skagit County
- 34620 Muncie, IN Metropolitan Statistical Area
Principal City: Muncie
Delaware County

service associated with a toll free number before switching that toll free number from reserved or assigned to working status.

(c) Responsible Organizations shall not maintain a toll free number in reserved status if there is not a prospective toll free subscriber requesting that toll free number.

(d) A Responsible Organization's act of reserving a number from the Service Management System database shall serve as that Responsible Organization's certification that there is an identified toll free subscriber agreeing to be billed for service associated with the toll free number.

(e) Tariff Provision. The following provision shall be included in the Service Management System tariff and in the local exchange carriers' toll free database access tariffs:

[T]he Federal Communications Commission ("FCC") has concluded that warehousing, which the FCC defines as Responsible Organizations, either directly or indirectly through an affiliate, reserving toll free numbers from the SMS database without having an identified toll free subscriber from whom those numbers are being reserved, is an unreasonable practice under §201(b) of the Communications Act and is inconsistent with the Commission's obligation under §251(e) of the Communications Act to ensure that numbers are made available on an equitable basis; and if a Responsible Organization does not have an identified toll free subscriber agreeing to be billed for service associated with each toll free number reserved from the database, or if a Responsible Organization does not have an identified, billed toll free subscriber before switching a number from reserved or assigned to working status, then there is a rebuttable presumption that the Responsible Organization is warehousing numbers. Responsible Organizations that warehouse numbers will be subject to penalties.

§52.107 Hoarding.

(a) As used in this section, hoarding is the acquisition by a toll free subscriber from a Responsible Organization of more toll free numbers than the toll free subscriber intends to use for

the provision of toll free service. The definition of hoarding also includes number brokering, which is the selling of a toll free number by a private entity for a fee.

(1) Toll free subscribers shall not hoard toll free numbers.

(2) No person or entity shall acquire a toll free number for the purpose of selling the toll free number to another entity or to a person for a fee.

(3) Routing multiple toll free numbers to a single toll free subscriber will create a rebuttable presumption that the toll free subscriber is hoarding or brokering toll free numbers.

(b) Tariff Provision. The following provision shall be included in the Service Management System tariff and in the local exchange carriers' toll free database access tariffs:

[T]he Federal Communications Commission ("FCC") has concluded that hoarding, defined as the acquisition of more toll free numbers than one intends to use for the provision of toll free service, as well as the sale of a toll free number by a private entity for a fee, is contrary to the public interest in the conservation of the scarce toll free number resource and contrary to the FCC's responsibility to promote the orderly use and allocation of toll free numbers.

§52.109 Permanent cap on number reservations.

(a) A Responsible Organization may have in reserve status, at any one time, either 2000 toll free numbers or 7.5 percent of that Responsible Organization's numbers in working status, whichever is greater.

(b) A Responsible Organization shall never reserve more than 3 percent of the quantity of toll free numbers in spare status as of the previous Sunday at 12:01 a.m. Eastern Time.

(c) The Wireline Competition Bureau shall modify the quantity of numbers a Responsible Organization may have in reserve status or the percentage of numbers in the spare pool that a Responsible Organization may reserve when exigent circumstances make such

action necessary. The Wireline Competition Bureau shall establish, modify, and monitor toll free number conservation plans when exigent circumstances necessitate such action.

62 FR 20127, Apr. 25, 1997, as amended at 67 FR 13226, Mar. 21, 2002

§52.111 Toll free number assignment.

Toll free numbers shall be made available on a first-come, first-served basis, unless otherwise directed by the Commission.

63 FR 16441, Apr. 3, 1998

APPENDIX TO PART 52—DEPLOYMENT SCHEDULE FOR LONG-TERM DATA-BASE METHODS FOR LOCAL NUMBER PORTABILITY

Implementation must be completed by the carriers in the relevant MSAs during the periods specified below:

Phase I—10/1/97-3/31/98

- Chicago, IL
Philadelphia, PA
Atlanta, GA
New York, NY
Los Angeles, CA
Houston, TX
Minneapolis, MN
Detroit, MI
Cleveland, OH
Washington, DC
Baltimore, MD
Miami, FL
Fort Lauderdale, FL
Orlando, FL
Cincinnati, OH
Tampa, FL
Boston, MA
Riverside, CA
San Diego, CA
Dallas, TX
St. Louis, MO
Phoenix, AZ
Seattle, WA

Phase II—1/1/98-5/15/98

- Portland, ME
Portland, OR
Portland, VT
Portland, NH
Portland, ME
Portland, OR
Portland, VT
Portland, NH

Phase III—4/1/98-6/30/98

- Indianapolis, IN
Milwaukee, WI
Columbus, OH
Pittsburgh, PA
Newark, NJ
Norfolk, VA
New Orleans, LA
Charlotte, NC
Greensboro, NC

Phase IV—7/1/98-9/30/98

- Grand Rapids, MI
Dayton, OH
Akron, OH
Gary, IN
Bergen, NJ
Middlesex, NJ
Monmouth, NJ
Richmond, VA
Memphis, TN
Louisville, KY
Jacksonville, FL
Raleigh, NC
West Palm Beach, FL
Greenville, SC
Honolulu, HI
Providence, RI
Albany, NY
San Jose, CA
Sacramento, CA
Fresno, CA
San Antonio, TX
Oklahoma City, OK
Austin, TX
Salt Lake City, UT
Tucson, AZ

Phase V—10/1/98-12/31/98

- Nashville, TN
Las Vegas, NV
Nassau, NY
Buffalo, NY
Orange Co, CA
Oakland, CA
San Francisco, CA
Rochester, NY
Kansas City, KS
Fort Worth, TX
Hartford, CT
Denver, CO
Portland, OR
Toledo, OH
Youngstown, OH
Ann Arbor, MI
Fort Wayne, IN
Scranton, PA
Allentown, PA
Harrisburg, PA
Jersey City, NJ
Wilmington, DE
Birmingham, AL
Knoxville, KY
Baton Rouge, LA
Charleston, SC
Sarasota, FL
Mobile, AL
Columbia, SC
Tulsa, OK
Syracuse, NY

Today
3:00pm

D-note

2003 BILL

RM
HAS
BEEN
RUN

Milwaukee, Waubesa, Washington, and Waushara counties (which are included in the Milwaukee MSA) and Pierce and St. Croix counties (which are included in the Minneapolis-St. Paul MSA)

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.

The following are

Analysis by the Legislative Reference Bureau

in
are

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 a customer to retain existing telephone numbers at the same location when switching telecommunications providers. Milwaukee is the only area in Wisconsin that is included 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.

(FCC)

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, the Federal Communications Commission has ordered wireless telecommunications providers to begin providing number portability in the 100 largest MSAs by November 24, 2003. 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, 2003, unless a

BILL

subsequent date is established under federal law as the FCC's deadline for providing number portability in the 100 largest MSAs. If such a subsequent date is established, the bill requires wireless telecommunications providers to begin providing number portability in all areas of the state on that date. The duty to provide number portability applies only if a customer of a wireless telecommunications provider switches to another telecommunications provider in the same area code. In addition, 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 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.

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 in the same area code to
16 retain the telephone numbers that the customer used with that commercial mobile
17 radio service provider.

BILL

1 (b) Beginning on the date specified in par. (c), each commercial mobile radio
2 service provider shall provide number portability in all areas of the state in a manner
3 that does not impair the quality or reliability of telecommunications services.

4 (c) The duty to comply with par. (b) begins on November 24, 2003, unless a
5 subsequent date is established under federal law as the implementation deadline for
6 the federal communications commission's regulations on wireless local telephone
7 number portability. If such a date is established, the duty to comply with par. (b)
8 begins on that date.

9

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1280/3dn

MDK: /:....

wlj

Rep. Schooff:

This version is identical to the previous version, except that it corrects an error in the analysis.

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1280/3dn
MDK:wlj:ch

September 19, 2003

Rep. Schooff:

This version is identical to the previous version, except that it corrects an error in the analysis.

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