

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1114

In the Matter of Oregon Telecommunications )  
Association Petition for Temporary )  
Suspension of Wireline to Wireless Number ) ORDER  
Portability Obligations Pursuant to Section )  
251(f)(2) of the Communications Act of )  
1934, As Amended. )

DISPOSITION: MOTION TO WITHDRAW GRANTED;  
TERMINATION DATE FOR INTERIM WAIVER SET.

On September 24, 2003, the Oregon Telecommunications Association and twenty-two member companies, some of which are utilities and some cooperative associations, (OTA), petitioned the Oregon Public Utility Commission (Commission) to temporarily suspend their number portability obligations. On October 29, 2003, Sprint Corporation on behalf of its wireless division, Sprint Spectrum L.P., d/b/a Sprint PCS (Sprint) filed a protest against the OTA Petition.

**Background.** Local Number Portability (LNP) is the ability of a customer to retain a currently-used nine-digit telephone number, even as the carrier providing service to that number is changed. Section 252(b) of the Telecommunications Act of 1996 (the Act) obliges both Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs) to enable customers to utilize LNP. Both the Act and the rules of the Federal Communications Commission (FCC) specify that state commissions administer many aspects of LNP implementation. The Commission has the authority to act on petitions for temporary suspension of LNP obligations within 180 days of the filing date.<sup>1</sup> In the instant case, that date is March 22, 2004.

The FCC has issued a number of orders setting forth the obligations of carriers to participate in the porting of customers' telephone numbers, including the most recent one which addresses the porting of numbers from wireline to wireless carriers ("Intermodal Porting").<sup>2</sup>

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<sup>1</sup> See 47 U.S.C. 251 (f).

<sup>2</sup> Memorandum Opinion & Order & Further Notice of Proposed Rulemaking, *In the Matter of Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, CC Docket No. 95-116 (FCC released November 10, 2003), ("Intermodal Porting Order").

In its November 10, 2003, *Intermodal Porting Order*, the FCC clarified an earlier opinion, stating that wireline carriers providing service to customers outside of the one hundred most populous Metropolitan Statistical Areas (MSAs) were not required to comply with the FCC's porting requirements until May 24, 2004. The Portland MSA is the only top 100 MSA in Oregon.

On November 20, 2003, OTA filed a Motion to withdraw its Petition and to establish a termination date of interim waiver for those carriers not withdrawing from the petition (OTA Motion). By Ruling of November 21, 2003, the presiding Administrative Law Judge (ALJ) allowed intervening parties until November 28, 2003, to file replies to the OTA Motion. Sprint Corporation filed a reply on November 28, 2003, (Sprint Reply). AT&T Wireless Services, Inc. filed a reply on December 5, 2003, one week late (AT&T Reply).

**Positions of the Parties.** OTA and its member companies include ILECs located both within and without the Portland MSA. The OTA Motion seeks to separate those of its members outside the Portland MSA<sup>3</sup> from this proceeding, so that they may utilize the FCC-granted waiver until May 24, 2004, and allow those of its members within the Portland MSA<sup>4</sup> to continue pursuing their positions under the current March 22, 2004, deadline. In support of its Motion, OTA and the Withdrawing ILECs wish to work toward the May 24, 2004 date, but "may need to file a new petition if it appears that the costs of providing wireline to wireless LNP are either economically burdensome... or there is a requirement that is technically infeasible for a particular company."<sup>5</sup> OTA contends that the Remaining ILECs may encounter severe difficulties because, unlike Qwest Corporation (Qwest) and Verizon Northwest Inc. (Verizon), they lack the resources necessary to address the technical problems and the experience in any form of porting.

There are significant systems that need to be developed to allow porting to occur. These include appropriate records systems, back office systems and gaining a technical familiarity with the porting software itself. In addition, contracts need to be put into place with the porting database providers that are not in place now. Finally, and not the least important, both Verizon Wireless and Sprint PCS have asked that the porting agreements be negotiated....

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<sup>3</sup> The withdrawing companies are Asotin Telephone Company d/b/a TDS Telecom, Gervais Telephone Company, Home Telephone Company d/b/a TCS Telecom, Monitor Cooperative Telephone Company, Monroe Telephone Company, Mt. Angel Telephone Company, Nehalem Telephone and Telegraph Co., North-State Telephone Co., Oregon Telephone Corporation, People's Telephone Company, Pioneer Telephone Cooperative Company, Roome Telecommunications Inc., St. Paul Cooperative Telephone Association, Scio Mutual Telephone Association and Stayton Cooperative Telephone Company. (Withdrawing ILECs).

<sup>4</sup> Beaver Creek Cooperative Telephone Company, Canby Telephone Association, Cascade Utilities, Inc., CenturyTel of Oregon, Inc., Clear Creek Mutual Telephone Company, Colton Telephone Company and Mollala Communications, Inc. (Remaining ILECs).

<sup>5</sup> OTA Motion, p. 2.

This time period of approximately three months will allow the Remaining Petitioners to work through the various requirements that are need to address wireline to wireless portability.<sup>6</sup>

OTA therefore asks the Commission to issue an order (1) removing the Withdrawing ILECs from the Petition and (2) establishing a termination date for the interim waiver of March 1, 2004, for the Remaining ILECs.

In its Reply, Sprint notes its concern that granting the OTA Motion without conditions could unnecessarily delay LNP implementation. Consequently, Sprint asks the Commission to set March 1, 2004, as a firm date by which the OTA companies in the Portland MSA must begin intermodal porting. Sprint also asks the Commission to set January 1, 2004 as the date the Withdrawing ILECs must petition the Commission for exemption from the May 24, 2004, LNP implementation deadline for companies outside the Top 100 MSAs.<sup>7</sup> By setting these deadlines, Sprint asserts that the Withdrawing ILECs will be discouraged from any further attempts to delay number portability implementation beyond March 22, 2004.<sup>8</sup>

Sprint asserts that OTA's claim that there 'may' be technical difficulties does not justify the grant of an unconditional stay. Furthermore, the operational agreements to which OTA referred need not be concluded prior to LNP implementation. Sprint states that it has met all of the FCC requirements with respect to LNP implementation "but remains wary of possible last-ditch efforts by Petitioners to forestall LNP on the basis that Sprint's requests for such implementation are somehow invalid."<sup>9</sup> In order to accommodate OTA members while addressing Sprint's concerns, Sprint

urges the Commission to grant OTA's Motion subject to the condition that if porting is not implemented [in the Portland MSA] by March 1, 2004, it will still rule on OTA's Petition within the 180 statutory timeframe (by March 22, 2004).... In addition, Sprint request that the Commission set a date by which the OTA companies outside the Portland MSA must file any subsequent §251(f)(2) petitions Sprint recommends that the Commission set January 4, 2004 as the date by which any petitions under §251(f)(2) must be filed. This is more than a reasonable period of time for the OTA companies to determine whether they wish to seek an exemption from the May 24, 2004 deadline for companies outside the Top 100 MSAs to implement wireline-to-wireless LNP.<sup>10</sup>

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<sup>6</sup> *Id.*, pp. 3-4.

<sup>7</sup> Sprint Reply, pp. 1-2.

<sup>8</sup> *Id.*, p. 2.

<sup>9</sup> *Id.*, pp. 3-4.

<sup>10</sup> *Id.*, pp. 4-5.

In its Reply, AT&T asserts that ILECs within the TOP 100 MSAs are “required to port numbers to all requesting wireless carriers for all such switches as of November 24, 2004.” (*sic*). The delay in the Portland MSA would, according to AT&T, be “likely to cause customer confusion and make the porting process even more complex and time-consuming....a customer within one of the top 100 MSAs who seeks to establish wireless service utilizing his exiting wireline telephone number will inevitably experience frustration...leading to an increase in customer complaints to this Commission.”<sup>11</sup>

**Discussion.** Section 251(f)(2) of the Act delegates to the States the authority to grant rural carriers exemptions from certain of the Act’s requirements and it is appropriate to conduct an investigation of the circumstances surrounding any petitions filed with us pursuant to this Section. An interim waiver has already been granted pursuant to the Act’s mandated 180 day period for considering such petitions, but it will be expiring within the next three months. We find that this is a sufficient period of time in which to conduct our inquiry with respect to the Portland MSA and the Remaining ILECs who provide local exchange service within it.

We also find it appropriate to follow the lead of the FCC and defer consideration of the issue in Oregon markets below the Top 100 MSAs. Permitting the Withdrawing ILECs to withdraw and deferring consideration does not, however, mean that we will place the public in a situation where number portability will be automatically deferred beyond the May 24, 2004, FCC implementation date. To the contrary, we affirm that it is incumbent on both the Remaining and Withdrawing ILECs to work expeditiously with wireless carriers and this Commission to answer the questions posed by intermodal portability and whether LNP poses a hardship which justifies a Section 251(f)(2) exemption.

## ORDER

IT IS HEREBY ORDERED that:

1. The Motion to withdraw Asotin Telephone Company d/b/a TDS Telecom, Gervais Telephone Company, Home Telephone Company d/b/a TCS Telecom, Monitor Cooperative Telephone Company, Monroe Telephone Company, Mt. Angel Telephone Company, Nehalem Telephone and Telegraph Co., North-State Telephone Co., Oregon Telephone Corporation, People’s Telephone Company, Pioneer Telephone Cooperative Company, Roome Telecommunications Inc., St. Paul Cooperative Telephone Association, Scio Mutual Telephone Association and Stayton Cooperative Telephone Company from this proceeding is GRANTED;

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<sup>11</sup> AT&T Reply, pp. 2-3. Although untimely filed, we consider the instant submission.

2. The interim waiver of the intermodal porting obligations of Beaver Creek Cooperative Telephone Company, Canby Telephone Association, Cascade Utilities, Inc., CenturyTel of Oregon, Inc., Clear Creek Mutual Telephone Company, Colton Telephone Company and Mollala Communications, Inc. shall expire on March 1, 2004.

Made, entered, and effective \_\_\_\_\_.

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**Lee Beyer**  
Chairman

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**John Savage**  
Commissioner

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**Ray Baum**  
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.