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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1125

In the Matter of)	
)	
HELIX TELEPHONE COMPANY)	ORDER
)	
Petition for Temporary Suspension of)	
Wireline to Wireless Number Portability)	
Obligations.)	

DISPOSITION: PETITION GRANTED

On December 22, 2003, Helix Telephone Company (Helix) filed a petition for temporary suspension of wireline to wireless number portability obligations. Helix is a small, rural telephone company, serving 342 customers in the Helix and Meacham exchanges.

Background. Local Number Portability (LNP) is the ability of a customer to retain a currently-used 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 use 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.¹ In the instant case, that date is June 19, 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 one which addresses the porting of numbers from wireline to wireless carriers ("Intermodal Porting").² The FCC directed wireline carriers outside the top 100 metropolitan areas, including both ILECs and CLECs, to implement number portability by May 24, 2004, if

¹ See U.S.C. 251 (f).

² 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*, FCC Docket No. 95-116 (FCC released November 10, 2003), ("Intermodal Porting Order").

they have received a request from a cellular carrier. Recently, Verizon Wireless and US Cellular requested Helix to provide intermodal number portability.

The Petition. Helix requests that the Commission grant temporary suspensions for the May 24, 2004 deadline for providing number portability to cellular providers. Helix requests that it be given until October 1, 2004 to provide number portability for the Helix exchange and until June 1, 2007 for the Meacham exchange.

Discussion. Section 251(f)(2) of the Act provides guidelines for state commissions to determine whether to grant waivers from, or suspension of, various requirements of the Act. The Commission recently granted a temporary waiver for seven petitions in the Portland metropolitan area. *See* Order No. 03-746, docket UM 1114.

Helix's two existing switches are technically incapable of providing number portability. The company plans to replace the Helix exchange switch in September 2004 and the Meacham exchange switch in May 2007. Helix estimates that each switch will cost approximately \$250,000.

Staff calculated the cost per customer of installing the switches earlier than the company planned in order to comply with the May 24, 2004 deadline. The cost in interest for the Helix exchange switch is \$42.56 per customer in the Helix exchange (234 customers). The cost for the Meacham exchange switch is \$781 per customer in the Meacham exchange (108 customers). Combined, the cost would be \$275 per customer.³ The cost of the switches themselves was not included in the calculations because Helix intends to replace the switches anyway.

Staff contacted Verizon Wireless, US Cellular and Sprint PCS to advise them that Helix filed a petition for temporary suspensions of its LNP obligations. No objections to the petition have been filed.

Staff recommends that the Commission find that the potential benefits of earlier portability do not justify the cost. The recommendation is detailed in a Staff Report, attached as Appendix A, and incorporated by reference.

At its Public Meeting January 20, 2004, the Commission adopted Staff's Recommendations and voted to grant Helix's petition for temporary suspension of its wireline to wireless number portability obligations.

³ Staff used 11.25% interest rate because that rate was used by the FCC to review requests for cost recovery for local number portability in prior years.

ORDER

IT IS ORDERED that:

1. Helix Telephone Company's petition for temporary suspension of wireline to wireless number portability obligation until October 1, 2004 for the Helix exchange is granted.
2. Helix Telephone Company's petition for temporary suspension of wireline to wireless number portability obligation until June 1, 2007 for the Meacham exchange is granted.

Made, entered, and effective _____.

Lee Beyer
Chairman

John Savage
Commissioner

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.

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: January 20, 2004

REGULAR X CONSENT _____ EFFECTIVE DATE _____ N/A _____

DATE: January 9, 2004

TO: Lee Sparling

FROM: Tom Harris through Dave Booth and Phil Nyegaard

SUBJECT: HELIX TELEPHONE COMPANY: (Docket No. UM 1125) Petition for Temporary Suspension of Wireline to Wireless Number Portability Obligations.

STAFF RECOMMENDATION:

Staff recommends the Commission grant Helix Telephone Company a temporary suspension of wireline to wireless number portability obligations until October 1, 2004, for the Helix exchange and until June 1, 2007, for the Meacham exchange.

DISCUSSION:

Introduction

On December 22, 2003, Helix Telephone Company (Helix) filed a petition for temporary suspension of wireline to wireless number portability obligations. Helix is a small, rural telephone company, serving 342 customers in the Helix and Meacham exchanges.

Number portability, i.e., local number portability (LNP), is an obligation placed on all local exchange carriers (LECs) by Section 251(b) of the Telecommunications Act of 1996 (the Act). The term LEC includes both ILECs and CLECs. The Oregon Commission has the authority and obligation to act on the petition under Section 251(f)(2) of the Act. That section also specifies that state commissions shall act on petitions within 180 days of the filing date. For the petition now before us, the deadline is June 19, 2004.

Background

Number portability allows customers to keep their telephone numbers when changing from one service provider to another. Number portability is under

federal jurisdiction, and the Federal Communications Commission (FCC) has adopted rules and issued several orders related to LNP. However, many aspects of the Act and of FCC rules are administered by state commissions.

Number portability was first implemented by wireline carriers in large metropolitan areas. LNP has been in effect in Portland since September 1998. Typically, customers use LNP to keep their ILEC phone number when they changed service to a CLEC. Number portability is also available in large metropolitan areas for customers who move from CLECs back to ILECs or between CLECs.

The FCC directed wireless carriers (essentially cellular carriers, aka CMRS providers) to develop procedures for porting cellular numbers among wireless carriers. After several extensions, the FCC set a deadline of November 24, 2003, for wireless carriers in the top 100 metropolitan statistical areas, including Portland, to comply. Outside the metropolitan areas the wireless carriers are required to comply by May 24, 2004. The FCC also directed wireline carriers, including both ILECs and CLECs, to implement number portability from wireline to wireless carriers by the same deadlines, if they have received a request from a cellular carrier. Number portability from wireline to wireless is often called inter-modal portability.

In the last few months, Verizon Wireless and U S Cellular requested Helix to provide inter-modal number portability. The due date is May 24, 2004, unless the Commission grants a temporary suspension or waiver. Staff contacted Verizon Wireless, U S Cellular, and Sprint PCS to advise them that we received the petition and that it would be brought before the Commission on January 20, 2004. The Director of External Affairs for U S Cellular has advised staff that it does not oppose Helix's petition and will not be filing comments.

The Petitions

The petitioner requests that the Commission grant temporary suspension of the May 24, 2004, deadline for providing number portability to cellular providers. Helix requests that it be given until October 1, 2004, to provide number portability for the Helix exchange and until June 1, 2007, for the Meacham exchange.

The Commission may recall that it recently considered two similar petitions from twenty-three wireline carriers in dockets UM 1113 and UM 1114. For the seven petitioners in the Portland metropolitan area, the Commission granted a temporary waiver until March 1, 2004. See Order No. 03-746, docketUM 1114. The remaining petitioners withdrew their petitions. However, some of them may

file new petitions for temporary suspension of number portability obligations, depending on individual circumstances. Helix was not one of those original petitioners.

Section 251(f)(2) of the Act provides guidelines for state commissions to make determinations whether to grant waivers from, or suspensions of, various requirements of the Act. Section 251(f)(2) provides:

The State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification—

(A) is necessary—

- (i) to avoid a significant adverse economic impact on users of telecommunications services generally;
 - (ii) to avoid imposing a requirement that is unduly economically burdensome; or
 - (iii) to avoid imposing a requirement that is technically infeasible; and
- (B) is consistent with the public interest, convenience, and necessity.

Helix's two existing switches are technically incapable of providing number portability. The company plans to replace the Helix exchange switch in September 2004 and the Meacham exchange switch in May 2007. Helix estimates that each switch will cost approximately \$250,000.

Staff knows that the Commission encourages competition between telecommunications providers, and that number portability has a positive effect on competition. I looked at the economic impact on Helix and its customers if the Commission denies the petition. I calculated the cost per customer for the interest on \$250,000 if Helix were obligated to purchase and install a switch 4.25 months sooner than planned in the Helix exchange and 36 months sooner in the Meacham exchange. I did not consider the impact of the switch cost itself, just the time value of money, because Helix intended to replace the switches anyway.

The cost of interest for the Helix exchange switch is \$42.56 per customer in that exchange (234 customers). The cost for the Meacham exchange switch is \$781 per customer in that exchange (108 customers). For both switches combined, the cost would be \$275 per customer.⁴

Staff does not assert that such costs would be paid explicitly by or entirely by Helix customers because Helix, as a small, rural company, is eligible for various

APPENDIX A
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⁴ Staff used 11.25% interest rate because that rate was used by the FCC to review requests for cost recovery for local number portability in prior years.

subsidies. However, such costs would be incurred and would fall on some telecommunications users somewhere.⁵

The question now before the Commission can be stated, "Is it in the public interest to incur costs of approximately \$42.56 per customer in the Helix exchange, in order to make number portability available May 24, 2004, rather than October 1, 2004, so that some, one or two, or perhaps zero, customers can port their numbers to a cellular carrier four months sooner than otherwise?" The same questions can be posed for the Meacham exchange and for Helix Telephone Company as a whole. Staff believes the answer is no. Section 251(f)(2) of the Act, gives the Commission reasonable grounds to grant Helix's petition. Staff recommends that the Commission find that the potential benefits of earlier portability do not justify the added cost and, therefore, the added cost is unduly economically burdensome and is not consistent with the public interest, convenience and necessity.

PROPOSED COMMISSION MOTION:

Helix Telephone Company be granted a temporary suspension of wireline to wireless number portability obligations until October 1, 2004, for the Helix exchange and until June 1, 2007, for the Meacham exchange.

um1125numberportability

⁵ The FCC has determined that cost recovery for number portability is "exclusively federal".