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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1149

In the Matter of)	
)	ORDER
EAGLE TELEPHONE SYSTEM INC)	
)	
Petition for Temporary Suspension of)	
Wireline to Wireless Number Portability)	
Obligations.)	

DISPOSITION: PETITION GRANTED

On April 29, 2004, Eagle Telephone System, Inc. (Eagle Telephone) filed a petition for temporary suspension of wireline to wireless number portability obligations. Eagle Telephone is a small telephone utility, serving approximately 475 customers in the Richland exchange.

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. LNP is an obligation placed on all local exchange carriers (LEC) by Section 251(b) of the Telecommunications Act of 1996 (the Act). The term LEC includes both Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs). Both the Act and the rules of the Federal Communications Commission (FCC) specify that state commissions administer many aspects of LNP implementation. Under 251(f)(2) of the Act, the Oregon Commission has the authority and obligation to act on the petition within 180 days of the filing date. In the instant case, the Commission must act by October 26, 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).¹ The FCC directed wireline carriers outside the top 100 metropolitan areas, including both ILECs and CLECs, to implement number portability by May 24, 2004 or within 180 days after receiving a bona fide request for LNP.

The Petition. Eagle Telephone requests that the Commission grant a temporary suspension of the May 24, 2004 deadline for providing number portability to cellular providers until November 24, 2004.

¹ 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").

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.

Eagle Telephone installed LNP software in its switch but has its Signaling System 7 links configured through an Idaho network operated by Syringa Networks, LLC. The network must be upgraded to provide LNP service. LNP cannot be provided until Syringa Networks completes the upgrade. Syringa Networks is to have completed the upgrade by November 24, 2004.

At its Public Meeting June 8, 2004, the Commission adopted Staff's Recommendation and voted to grant Eagle Telephone's petition for temporary suspension of its wireline to wireless number portability obligations until November 24, 2004. The recommendation is detailed in a Staff Report, attached as Appendix A, and incorporated by reference.

ORDER

IT IS ORDERED that Eagle Telephone System Inc.'s petition for temporary suspension of its wireline to wireless number portability obligations until November 24, 2004, 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.

ITEM NO. CA4

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: June 8, 2004**

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A _____

DATE: May 26, 2004

TO: Lee Sparling

FROM: Tom Harris through Dave Booth and Phil Nyegaard

SUBJECT: EAGLE TELEPHONE SYSTEM, INC.: (Docket No. UM 1149) Petition for Temporary Suspension of Wireline to Wireless Number Portability Obligations.

STAFF RECOMMENDATION:

Staff recommends the Commission grant Eagle Telephone System, Inc., a temporary suspension of wireline to wireless number portability obligations until November 24, 2004.

DISCUSSION:

Introduction

On April 29, 2004, Eagle Telephone System, Inc., (Eagle Telephone or company) filed a petition for temporary suspension of wireline to wireless number portability obligations. Eagle Telephone is a small telephone utility, headquartered in Richland, with approximately 475 customers in the Richland exchange. Richland is about 35 miles east of Baker City.

Number portability, i.e., local number portability (LNP), is an obligation placed on all local exchange carriers (LECs), both incumbents and competitive providers, by Section 251(b) of the Telecommunications Act of 1996 (the Act). Both the Act and rules of the Federal Communications Commission (FCC) specify that state commissions administer many aspects of LNP. Under Section 251(f)(2) of the Act, the Oregon Commission must act on the petition now before us within 180 days of the filing date, that is, by October 26, 2004.

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Background

Number portability allows customers to keep their telephone numbers when changing from one service provider to another. Number portability was first implemented by wireline carriers in large metropolitan areas, and it has been in effect in Portland since September 1998.

Since enactment of the Act, the FCC has issued several orders related to number portability. For areas outside the top 100 metropolitan statistical areas, the FCC directed wireless carriers (that is cellular carriers, aka CMRS providers) and wireline carriers to implement LNP by May 24, 2004, or within 180 days of receiving a bona fide request for LNP.² Carriers within the top 100 metropolitan areas were to have implemented number portability by November 24, 2003. Number portability from wireline to wireless is often called inter-modal portability.

On November 24, 2003, U.S. Cellular sent Eagle Telephone a request for inter-modal portability, and on April 5, 2004, Rural Cellular Corporation sent the company a similar request. Staff contacted U.S. Cellular and Rural Cellular to advise them that we received the petition and that it would be brought before the Commission on June 8, 2004. Neither cellular carrier indicated that it objected to Eagle Telephone's petition.

The Petition

Eagle Telephone installed LNP software in its switch. However, the company has its Signaling System 7 (SS7) links configured through an Idaho network operated by Syringa Networks, LLC. The SS7 technology is necessary for LNP to function. Syringa Networks, which is owned by many small incumbent telephone carriers in Idaho, must upgrade its switch in order to provide LNP services to the telephone companies. It is not technically feasible for the Idaho companies, or for Eagle Telephone, to provide number LNP until Syringa Networks completes the upgrade.

The Idaho incumbent carriers petitioned the Idaho Public Utilities Commission for a waiver from number portability obligations until November 24, 2004, by which time Syringa Networks is to have completed the upgrade of its switch. The Idaho Commission granted the petition on March 26, 2004.³

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² Memorandum Opinion & Order and Further Notice of Proposed Rulemaking, *In the Matter of Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, FCC Order No. 03-284, CC Docket No. 95-116, released November 10, 2003. ("Inter-modal Porting Order")

³ Idaho Public Utilities Commission, Case No. GNR-T-04-1, Order No. 29452, March 26, 2004.

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.

The Commission encourages competition between telecommunications providers, and number portability has a positive effect on competition. Here, the Commission needs to consider whether Eagle Telephone has been diligent in its efforts to deploy number portability. Staff believes the company has been diligent. In granting the waiver to the Idaho telephone companies, the Idaho Commission recognized that Syringa Networks will not be able to support LNP until approximately November 24, 2004. Therefore, as a practical matter, Eagle Telephone will not be able to implement number portability until then. Staff recommends that the Commission grant the petition in order to avoid imposing a requirement that is technically infeasible, which is one of the guidelines in Section 252(f)(2) of the Act.

PROPOSED COMMISSION MOTION:

Eagle Telephone System, Inc., be granted a temporary suspension of wireline to wireless number portability obligations until November 24, 2004.

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ORDER NO. 04-349

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