

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

In the Matter of)
)
Local Number Portability Porting Interval and) WC Docket No. 07-244
Validation Requirements)

**COMMENTS
of the
ORGANIZATION FOR THE PROMOTION AND
ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES
and the
WESTERN TELECOMMUNICATIONS ALLIANCE**

I. INTRODUCTION

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)¹ and the Western Telecommunications Alliance (WTA)² hereby submit these comments in response to the Federal Communications Commission's (FCC, Commission) Notice of Proposed Rulemaking in the above-captioned proceeding.³ OPASTCO holds a seat on the North American Numbering Council (NANC) and actively participates in that body's deliberations. OPASTCO and WTA maintain that there is no justification for altering the current four

¹ OPASTCO is a national trade association representing over 600 small telecommunications carriers serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than 5.5 million customers. Nearly all OPASTCO members are rural telephone companies as defined in 47 U.S.C. §153(37).

² WTA is a trade association that represents approximately 250 rural telephone companies operating west of the Mississippi River. Most members serve fewer than 3,000 access lines overall, and fewer than 500 access lines per exchange.

³ *Telephone Number Requirements for IP-Enabled Services Providers*, WC Docket No. 07-243, *Local Number Portability Porting Interval and Validation Requirements*, WC Docket No. 07-244, *IP-Enabled Services*, WC Docket No. 04-36, *Telephone Number Portability*, CC Docket No. 95-116, Report And Order, Declaratory Ruling, Order On Remand, And Notice Of Proposed Rulemaking, 22 FCC Rcd 19531 (2007) (NPRM).

day interval for completing number ports in the case of rural incumbent local exchange carriers (ILECs).

II. THE EXISTING PORTING INTERVAL SHOULD NOT BE SHORTENED FOR RURAL ILECS

The NPRM tentatively concludes that the Commission should adopt rules to reduce the amount of time that carriers would have to complete simple numbering ports.⁴ Specifically, the NPRM tentatively concludes that the interval should be reduced from four days to 48 hours for both wireline-to-wireline and intermodal ports.⁵ The NPRM then makes a perfunctory request for comments on the burdens these new requirements would impose upon small entities.⁶

The NPRM neglects to consider the unique operating conditions of rural ILECs. Most rural ILECs serve sparsely populated markets. Hence, they experience few, if any, port requests of any kind. While the “technological advancements and recent competitive developments” that the NPRM alludes to⁷ may have altered the porting environments of larger service providers, they have not impacted the fundamental operating conditions of rural ILECs serving small markets with regard to number portability.

As OPASTCO discussed in comments filed in 2004,⁸ most rural ILECs do not currently possess automated porting systems, due to the small amount of requests

⁴ NPRM, para. 59. At fn. 153, the Commission defines a “simple port” as those ports that: (1) do not involve unbundled network elements; (2) involve an account only for a single line; (3) do not include complex switch translations (*e.g.*, Centrex, ISDN, AIN services, remote call forwarding, or multiple services on the loop); and (4) do not include a reseller (citations omitted).

⁵ *Ibid.*, paras. 60-61, 63.

⁶ *Id.*, para. 64.

⁷ *Id.*, para. 62.

⁸ *See* OPASTCO comments, CC Docket No. 95-116 (fil. Nov. 17, 2004).

received. This has not changed since that time. Also, the NANC has correctly reported to the Commission that in order to support a shorter porting interval, rural ILECs would “need to change internal operating software, business practices, and implement mechanized systems and automated interfaces with other carriers.”⁹ Clearly, the additional investment in these systems and the personnel training and other costs that would be incurred to support the relatively few ports that rural carriers can anticipate would not pass any rational cost-benefit test, and could create an economic hardship for rural carriers. This, in turn, could hinder other planned network upgrades.

Furthermore, the NPRM requests comment on how the Commission should define the porting interval timelines in terms of operating hours.¹⁰ For rural ILECs, the question should not be addressed in terms of hours, but rather in business days. While large service providers may have automated systems and continuously manned operations, rural ILECs usually have only a small number of employees. Rural ILECs’ technical personnel are responsible for service territories that may span hundreds of square miles. They must maintain software, hardware and physical plant facilities. Some of the latter can take hours to reach, even under good weather and travel conditions. Expectations that ILECs with limited staffing resources could routinely fulfill a port request received on a Friday afternoon before the next business week has even begun¹¹ are unrealistic.

When a rural ILEC without an automated porting system receives a local service request (LSR) to port a number, the request must first be manually processed under firm

⁹ *NANC Report & Recommendation on Intermodal Porting Intervals*, Prepared for the NANC by the Intermodal Porting Interval Issue Management Group (fil. May 3, 2004), p. 25 (NANC Report).

¹⁰ NPRM, para. 63.

¹¹ *Id.*, para. 64.

order confirmation (FOC) procedures. This process verifies the customer information in order to minimize erroneous ports. It also confirms the due date of the port to minimize the chance of disrupting the customer's service. The local number portability (LNP) database is maintained at the Number Portability Administration Center (NPAC), which matches the porting information from both the old and new service providers, and downloads necessary information into signaling networks. Rural ILECs with low volumes of ports typically use a low-tech interface (essentially a dial-up connection) or an optional virtual private network to coordinate with the NPAC. Rural carriers without automated systems may need to coordinate with personnel at the NPAC, which is only open from 7:00 a.m. until 7:00 p.m. Central time, Monday through Friday.¹²

After the administrative work is completed, ports must be initiated, tested, and finalized. To do so, rural ILECs typically need to visit a switch more than once to complete translation changes. The day before the scheduled due date of a port, a "10-digit trigger" (TDT) must be set at the old service provider's switch to ensure that calls to the number in question are queried in the LNP database. Carriers that do not have automated systems must visit the number's old switch in order to set the TDT. Another visit is required to complete the port, and remove the TDT. Therefore, technicians, who have a myriad of other responsibilities throughout the carrier's service territory, must visit a switch at least twice in order to properly execute a port. Rural carriers lacking automated systems are simply incapable of accomplishing both the administrative and technical aspects of porting within 48 hours. It is not practical or reasonable to expect a rural ILEC to consistently complete porting requests in less than four business days.

¹² NANC Report, p. 10.

In sum, rural ILECs would not be able to implement shorter porting intervals without incurring vastly disproportionate costs that would ultimately be born by consumers. Rural carriers' small staffs and large service territories are ill-suited to a wholesale revamping of recordkeeping, staffing, training, and business practices in order to accommodate faster porting, which is requested by very few customers at best. Therefore, the current four day interval should remain the same for rural ILECs.

III. THE NPRM'S INITIAL REGULATORY FLEXIBILITY ANALYSIS FAILS TO PROVIDE MANDATORY DESCRIPTIONS OF COMPLIANCE REQUIREMENTS, FAILS TO DESCRIBE STEPS TAKEN TO REDUCE BURDENS ON SMALL ENTITIES, AND IMPERMISSIBLY SHIFTS THE DUTY TO PROVIDE ESTIMATES TO THE PUBLIC

The NPRM's Initial Regulatory Flexibility Analysis (IRFA) is deficient as it lacks any actual analysis. Instead, it simply recites some of the questions raised in the NPRM.

The IRFA also fails in three distinct additional ways.

First, the IRFA's Section D, "Description of Projected Reporting, Recordkeeping and Other Compliance Requirements," contains no descriptions at all. It simply mentions that "associated rules potentially could modify the reporting and recordkeeping requirements of certain telecommunications providers," then notes that the NPRM seeks comments on these unspecified compliance requirements.¹³ Because impacted parties cannot comment on the descriptions of projected compliance requirements if no descriptions are provided, the IRFA is deficient.

Second, the IRFA's Section E, "Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered," is similarly flawed. Instead of discussing any steps that the Commission contemplates to minimize the

¹³ IRFA, para. 43.

impacts on small entities, the IRFA merely contains a boilerplate recitation of potential alternative steps that should be considered, as listed in the Regulatory Flexibility Act.¹⁴

Finally, the IRFA impermissibly shifts the burden of providing required estimated compliance descriptions¹⁵ and compliance cost projections¹⁶ to commenting parties. However, as the United States Small Business Administration has previously made clear, the Commission cannot rely upon comments from the public to evade its statutory duties under the Regulatory Flexibility Act.¹⁷ As the regulating body that is tentatively concluding that new regulations are desirable, it is the Commission's responsibility to describe the burdens that proposed new rules would impose on small entities, and to project what the costs will be. The public is supposed to provide comment on the Commission's burden and cost estimates, which it cannot do if they are not provided. The Commission cannot require commenting parties to initiate that task themselves.

The Commission can ameliorate the deficiencies described above by maintaining the four day porting interval for rural carriers.

IV. CONCLUSION

The NPRM's tentative conclusions to reduce the porting interval do not take account of the operational conditions of rural ILECs. These carriers lack the recordkeeping, personnel, and automation resources necessary to complete ports within

¹⁴ *Id.*, para. 44.

¹⁵ *Id.*, para. 43.

¹⁶ *Id.*, para. 45.

¹⁷ Reply Comments of the U.S. Small Business Administration Office of Advocacy, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147 (fil. Jul. 22, 1999), pp. 7-8 (citations omitted).

the proposed time frame. Requiring rural ILECs to acquire these resources would place a disproportionate strain on these carriers and their customers that would far outweigh any potential benefits. Therefore, the current four day porting interval should be retained for rural ILECs.

Respectfully submitted,

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March 24, 2008

CERTIFICATE OF SERVICE

I, Stephen Pastorkovich, hereby certify that a copy of the reply comments by the Organization for the Promotion and Advancement of Small Telecommunications Companies and the Western Telecommunications Alliance was sent by first class United States mail, postage prepaid, or via electronic mail, on this, the 24th day of March 2008, to those listed on the attached sheet.

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