

Background

Number portability allows customers to keep their telephone numbers when changing from one service provider to another. Number portability is under the jurisdiction of the Federal Communications Commission (FCC), and the 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.

The FCC directed wireless carriers (that is 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 two deadlines. However, outside the metropolitan areas carriers have 180 days after receiving a bona fide request to implement number portability. Number portability from wireline to wireless is often called inter-modal portability.

On March 31, 2004, T-Mobile, a cellular carrier, sent Pine Telephone a request for inter-modal portability for its Granite exchange. On April 5, 2004, Rural Cellular Corporation sent Pine Telephone a request for number portability for the Granite exchange and for the Halfway and Oxbow wire centers, both in the Halfway exchange. Staff contacted T-Mobile and Rural Cellular Corporation to advise them that we received the petition and that it would be brought before the Commission on May 18, 2004. Neither cellular carrier indicated that it objected to Pine Telephone's petition.

The Petitions

In the original petition, filed April 14, the company requested that the Commission grant temporary suspension of the obligation to provide inter-modal portability in the Granite exchange until March 1, 2005. At that time, no request was filed regarding the Halfway exchange because the company thought it could implement number portability there by May 24. The existing switch in Granite, a Mitel GX5000, is not able to port numbers, that is, it is not LNP compatible. Pine Telephone plans to replace that switch in February 2005, and the new switch will be compatible with number portability.

Absent a temporary suspension, the company will be obligated to implement number portability in Granite by September 27, 2004, 180 days after T-Mobile's request.

In the amendment, filed April 26, the company requested that it be granted a temporary waiver of number porting obligations in the Halfway exchange for 90 days after May 24, 2004, that is until August 22, 2004. Pine Telephone has installed a new switch in the Halfway exchange, and recently it discovered software compatibility problems, which make the new switch unable to support number portability. The company states that it needs additional time to resolve the software problems.

The company had hoped to be ready in Halfway by May 24, 2004. Staff's reading of FCC rules is that Pine Telephone has until September 27, to provide number portability in the Halfway exchange, as well as in Granite. Nevertheless, in an abundance of caution to not violate FCC criteria, Pine Telephone filed the petition for a temporary waiver until August 22.

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.

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 if Pine Telephone were required to install a new switch in the Granite exchange by September 27. It is not clear that the company could, in reality, install a new switch in Granite by September 27, even if required to do so.

The new switch will cost about \$290,000. I calculated the cost per customer for interest on \$290,000 if the new switch were installed by September 27, about five months before the requested deadline of March 1, 2005. I did not consider the impact of the switch cost itself, just the time value of money, because Pine Telephone is already

committed to installing the new switch. The cost of interest, at 11.25%, is \$13,594. That is about \$162 per customer in the Granite exchange (84 customers).¹

Staff does not assert that such costs would be paid explicitly by, or entirely by, Pine Telephone customers because, as a small rural company, the company is eligible for various subsidies. However, such costs would be incurred and would fall on some telecommunications users somewhere.²

The question before the Commission can be stated, "Is it in the public interest to incur costs of approximately \$162 per customer in the Granite exchange, in order to make number portability available September 27, 2004, rather than March 1, 2005, so that some customers can port numbers to a cellular carrier five months sooner than otherwise?" Staff believes the answer is no. Section 251(f)(2) of the Act, gives the Commission reasonable grounds to grant the 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.

For the Halfway exchange, the question or issue before the Commission is not a money issue. The Commission needs to consider whether Pine Telephone has been diligent in its efforts to deploy number portability. Staff believes the company has been diligent. We recognize that installing new equipment of any kind often incurs technical problems, and that has happened to Pine Telephone. Therefore, 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:

Pine Telephone System, Inc., be granted a temporary suspension of wireline to wireless number portability obligations until March 1, 2005, for the Granite exchange, and until August 22, 2004, for the Halfway exchange.

¹ 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.

² The FCC has determined that cost recovery for number portability is "exclusively federal".