validate a port request.[159] However, with respect to other categories of simple ports, we note that industry deliberations have not led to consensus on this issue, suggesting that Commission action could be appropriate.[160] For example, T-Mobile and Sprint suggest that the Commission should adopt four data fields: (1) 10-digit telephone number; (2) customer account number; (3) 5-digit zip code; and (4) pass code (if applicable).[161] We find Petitioners' proposal to be reasonable given that the wireless industry has reached agreement to require only three fields to validate port requests, and note that their proposal falls within the range of the required number of fields proposed by commenters.[162]

48. Thus, we conclude that LNP validation should be based on no more than four fields for simple ports (*i.e.*, wireline-to-wireline, wireless-to-wireless, and intermodal ports), and that those fields should be: (1) 10-digit telephone number; (2) customer account number; (3) 5-digit zip code; and (4) pass code (if applicable). We find that, despite disagreement within the industry on which specific data are necessary to effectuate a port,[163] there is sufficient basis in the record to support our conclusion that LNP validation for simple ports should be based on no more than four fields. We further conclude that 90 days is sufficient time for affected entities to comply with these LNP validation requirements. We find this implementation period is reasonable, particularly in light of the evidence discussed above that it is common for incumbent LECs to make ongoing changes to their port validation process and that wireless carriers were readily able to implement a reduction in the number of data fields required to validate wireless-to-wireless port requests. Therefore, affected entities must be in compliance with these validation requirements within 90 days of the date of release of this Declaratory Ruling.

49. Some commenters caution the Commission to ensure that the data fields used for validation adequately protect customers from slamming.[164] We conclude that the fields proposed by the Petitioners

[159] *See* T-Mobile/Sprint Nextel Petition at 4 (wireless providers validating port requests require only the use of customer telephone number, account number, and password (if applicable)).

[160] *See, e.g.*, T-Mobile/Sprint Nextel Reply, CC Docket No. 95-116, at 10 (filed Feb. 23, 2007) (noting that the validation issue has been before the NANC for almost three years and the industry remains deadlocked); Nebraska Commission Comments, CC Docket No. 95-116, at 3 (filed Feb. 8, 2007) (stating that a failure by the Ordering and Billing Forum (OBF) to arrive at a consensus should be the trigger for the Commission to step in and set a standard).

[161] *See* T-Mobile/Sprint Nextel Petition at 7; *see also* T-Mobile/Sprint Nextel Reply at 15 (clarifying that their validation field recommendation solely applies to simple port requests).

[162] For example, Charter argues that the provision of name, address, and phone number are sufficient data fields to validate ports between carriers. *See* Charter Comments, CC Docket No. 95-116, at 6 (filed Feb. 8, 2007); *see also* Verizon July 27, 2007 *Ex Parte* Letter at 2 (stating that Verizon is currently validating the customer on only five fields of information on the number portability request: account number, ported telephone number, state, type of service, and, in some jurisdictions, customer name).

[163] *See, e.g.*, T-Mobile/Sprint Nextel Petition at 7; Comcast Comments, CC Docket No. 95-116, at 6 (filed Feb. 8, 2007); Embarq Comments, CC Docket No. 95-116, at 2-4, 6 (filed Feb. 8, 2007); MetroPCS Comments, CC Docket No. 95-116, at 8 (filed Feb. 8, 2007); TWTC *et al.* Comments, CC Docket No. 95-116, at 5-7 (filed Feb. 8, 2007); Verizon Comments, CC Docket No. 95-116, at 7-8 (filed Feb. 8, 2007); T-Mobile/Sprint Nextel Reply, CC Docket No. 95-116, at 6 (filed Feb. 23, 2007); Letter from Ann D. Berkowitz, Associate Director, Verizon, to Marlene Dortch, Secretary, FCC, CC Docket No. 95-116, at 2 (dated July 27, 2007) (Verizon July 27, 2007 *Ex Parte* Letter).

[164] *See, e.g.*, NASUCA Comments, CC Docket No. 95-116, at 2 (filed Feb. 8, 2007); Embarq Comments, CC Docket No. 95-116, at 6 (filed Feb. 8, 2007). *But see* Verizon Oct. 23, 2007 *Ex Parte* Letter at 3 (arguing that concerns about slamming do not apply equally in the context of service provider changes to and from VoIP service providers). We note that because wireline telephone numbers are generally more centralized, telephone numbers with only slight variations may exist in the same zip code, particularly in rural areas, and thus an inadvertent error in exchanging the customer's telephone number may result in a non-properly validated port. *See* Embarq Comments at 6 (fearing that a porting-in carrier could transpose the digits of a telephone number and that the incorrect telephone number will also be within the zip code area, resulting in an incorrect port).

will sufficiently protect consumers from slamming, and note that data in the record suggest that complaints about unauthorized ports occur much less frequently for wireless-to-wireless ports, where only three validation fields are used, than for intermodal ports.[165] The record reveals other considerations when defining those specific validation fields. In particular, competitors note that many LNP requests are rejected due to typographical errors or even different conventions in how words are entered in an LSR – such as abbreviating Avenue as "Av." rather than "Ave."[166] Based on the record before us, we conclude that there are efficiencies in using numeric or alphanumeric information rather than alphabetic information alone in the validation process to decrease the validation error rate.[167] Thus, we find that the specific validation fields we adopt herein, which rely not on words, but rather rely only on numbers or alphanumeric codes, are appropriate. We are persuaded that the approach we adopt here reasonably balances consumer concerns about slamming with competitors' interest in ensuring that LNP may not be used in an anticompetitive manner to inhibit consumer choice.

2. Final Regulatory Flexibility Analysis for the *Intermodal Number Portability Order*

50. As discussed above,[168] in its 2003 *Intermodal Number Portability Order*, the Commission clarified that porting from a wireline carrier to a wireless carrier is required where the requesting wireless carrier's coverage area overlaps the geographic location in which the wireline number is provisioned, provided that the porting-in carrier maintains the number's original rate center designation following the port.[169] On March 11, 2005, the United States Court of Appeals for the District of Columbia Circuit remanded the *Intermodal Number Portability Order* to the Commission.[170] The court determined that the *Intermodal Number Portability Order* resulted in a legislative rule, and that the Commission had failed to prepare a FRFA regarding the impact of that rule on small entities, as required by the RFA.[171] The court accordingly directed the Commission to prepare the required FRFA, and stayed future enforcement of the *Intermodal Number Portability Order* "as applied to carriers that qualify as small entities under the RFA" until the agency prepared and published that analysis.[172] On April 22, 2005, the Commission issued a Public Notice seeking comment on an IRFA of the *Intermodal Number Portability Order*.[173]

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[165] *See, e.g.*, T-Mobile/Sprint Nextel Reply, CC Docket No. 95-116, at 13-15 (filed Feb. 23, 2007); Comcast Comments, CC Docket No. 95-116, at 6 (filed Feb. 8, 2007).

[166] *See, e.g.*, Leap Wireless Comments, CC Docket No. 95-116, at 2 (filed Feb. 8, 2007) (stating that LECs will reject any abbreviation that does not precisely match the data in the customer's account, causing delay); MetroPCS Comments, CC Docket No. 95-116, at 6 (filed Feb. 8, 2007) (stating that some incumbent LECs reject porting requests for placing a comma in an incorrect place on the LSR); Integra Reply, CC Docket No. 95-116, at 4 (filed Feb. 23, 2007).

[167] We note that the Petitioners propose relying on a customer's password as a possible validation field. Theoretically, customers could choose a word for use as their password. We do not believe that this would present the same problem as street names, for example, because it would not raise abbreviation concerns.

[168] *See supra* para. 8.

[169] *See Intermodal Number Portability Order*, 18 FCC Rcd at 23706, para. 22.

[170] *See United States Telecom. Ass'n v. FCC*, 400 F.3d 29 (D.C. Cir. 2005).

[171] *See id.* at 42-43; *see also* 5 U.S.C. § 604 (Regulatory Flexibility Act).

[172] *United States Telecom. Ass'n v. FCC*, 400 F.3d at 43.

[173] *See Federal Communications Commission Seeks Comment on Initial Regulatory Flexibility Analysis in Telephone Number Portability Proceeding*, CC Docket No. 95-116, Public Notice, 20 FCC Rcd 8616 (2005). A full list of comments to the Public Notice is included as Appendix A.

51. In accordance with the requirements of the RFA, we have considered the potential economic impact of the intermodal porting rules on small entities and conclude that wireline carriers qualifying as small entities under the RFA will be required to provide wireline-to-wireless intermodal porting where the requesting wireless carrier's "coverage area" overlaps the geographic location in which the customer's wireline number is provisioned, provided that the porting-in carrier maintains the number's original rate center designation following the port.[174] The Commission has prepared a FRFA as directed by the court, which we attach as Appendix D.[175]

IV. NOTICE OF PROPOSED RULEMAKING

52. Through this Notice of Proposed Rulemaking (Notice), we consider whether there are additional numbering requirements that we should adopt to benefit customers of telecommunications and interconnected VoIP services. First, we seek comment on whether the Commission should act to extend other numbering-related obligations to interconnected VoIP providers. Second, we seek comment on whether we should adopt specific rules regarding the LNP validation process and porting interval lengths.

A. Interconnected VoIP Provider Numbering Obligations

53. As discussed above, we take steps in this Order to ensure that customers of interconnected VoIP services receive the benefits of LNP, and to minimize marketplace distortions arising from regulatory advantage. We seek comment on any other issues associated with the implementation of LNP for users of interconnected VoIP services. We also seek comment on whether any of our numbering requirements, in addition to LNP, should be extended to interconnected VoIP providers. For example, we seek comment on whether the Commission should require interconnected VoIP providers to comply with N11 code assignments.[176] As described in the Order above, the Commission already requires

[174] *See Intermodal Number Portability Order*, 18 FCC Rcd at 23698, para. 1. We note that a carrier may petition the Commission for additional time or waiver of the intermodal porting requirements if it can provide substantial, credible evidence that there are special circumstances that warrant departure from existing rules. *See* 47 C.F.R. §§ 1.3, 52.25(e). In addition, under section 251(f)(2) of the Act, a LEC with fewer than two percent of the nation's subscriber lines installed in the aggregate nationwide may petition the appropriate state commission for suspension or modification of the requirements of section 251(b). *See* 47 U.S.C. § 251(f)(2).

[175] Further, in light of the court's determination that the *Intermodal Number Portability Order* resulted in a legislative rule, we elect to amend our rules to expressly incorporate the Commission's holding. To this end, a new subsection (h) is added to section 52.23 of the Commission's rules. The text of the new subsection is provided in Appendix B of this Order. We note that this addition to our rules is non-substantive, in that it merely incorporates in the Code of Federal Regulations the requirements previously adopted in the *Intermodal Number Portability Order*.

[176] *See, e.g.*, Arizona Commission Comments, WC Docket No. 04-36, at 17. N11 codes are abbreviated dialing arrangements that enable callers to access special services by dialing only three digits. The network must be pre-programmed to translate the three-digit code into the appropriate seven- or ten-digit sequence and route the call accordingly. Because there are only eight available N11 codes, N11 codes are among the scarcest of numbering resources under the Commission's jurisdiction. N11 codes 211, 311, 411, 511, 611, 711, 811, and 911 are available for assignment by the Commission. N11 codes "011" and "111" are unavailable because "0" and "1" are used for switching and routing purposes. To date, the Commission has assigned six N11 codes – 211, 311, 511, 711, 811, and 911. *See The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, First Report and Order and Further Notice of Proposed Rulemaking, 12 FCC Rcd 5572 (1997) (assigning 311 for non-emergency police and other governmental services); *The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, Second Report and Order, 15 FCC Rcd 15188 (2000) (assigning 711 for telephone relay services for the hearing impaired); *The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, Third Report and Order and Order on Reconsideration, 15 FCC Rcd 16753 (2000) (assigning 211 for information and referral services and 511 for travel and information services); *The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, Fourth Report and Order and Third Notice of Proposed Rulemaking, 15 FCC Rcd 17079 (2000) (assigning 911 as the national emergency number); *The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, Sixth

(continued....)

interconnected VoIP providers to supply 911 emergency calling capabilities to their customers whose service connects with the PSTN and to offer 711 abbreviated dialing for access to telephone relay services.[177] Commenters should provide information on the technical feasibility of a requirement to comply with the other N11 code assignments. We also seek comment on the benefits and burdens, including the burdens on small entities, of requiring interconnected VoIP providers to comply with N11 code assignments or other numbering requirements.

B. LNP Process Requirements

54. As the Commission has found, it is critical that customers be able to port their telephone numbers in an efficient manner in order for LNP to fulfill its promise of giving "customers flexibility in the quality, price, and variety of telecommunications services."[178] Although customers have had the option to port numbers between their telephone service providers for a number of years, the length of time for ports to occur and other difficulties with the porting process may hinder such options. Therefore, we seek comment on whether the Commission should take steps to mandate or modify certain elements of the porting process to ensure the efficiency and effectiveness of LNP for U.S. telephone consumers.

55. We find this to be a significant concern both due to the Commission's efforts as a general matter to ensure "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another,"[179] as well as due to the important role intermodal providers play in telecommunications competition. Indeed, incumbent LECs have sought to rely on the presence of telephone competition from wireless providers and cable operators when seeking relief from regulatory obligations.[180] To help enable such intermodal competition, and the deregulation that can result from such competition, it thus is important for the Commission to ensure the efficiency and effectiveness of LNP, which "eliminates one major disincentive to switch carriers" and thus facilitates "the successful entrance of new service providers."[181] However, we do not limit our inquiry below specifically to intermodal LNP but seek comment on the need for Commission requirements on LNP processes in other contexts as well.

56. Our conclusion, above, that carriers can require no more than four fields for validation of a simple port, and what information those fields should contain, addresses the consideration of the appropriate amount and type of information necessary to effectuate a port. We are also interested in comments about how the information required for the validation fields we adopt herein affects the validation process, including any other ways that those validation fields could minimize the error rates or

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Report and Order, 20 FCC Rcd 5539 (2005) (designating 811 for state "One Call" notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Improvement Act of 2002). The remaining N11 codes – 411 and 611 – are widely used by carriers, but have not been assigned by the Commission for nationwide use. N11 codes that have not been assigned nationally can continue to be assigned for local uses, provided that such use can be discontinued on short notice. *See* North American Numbering Plan Administrator website, *available at* http://www.nanpa.com.

[177] *See VoIP 911 Order*, 20 FCC Rcd at 10246, para. 1; *TRS Order*, 22 FCC Rcd at 11296-97, paras. 42-43 (2007).

[178] *First Local Number Portability Order*, 11 FCC Rcd at 8368, para. 30.

[179] 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(l).

[180] *See, e.g., Petition of Qwest Communications International Inc. for Forbearance from Enforcement of the Commission's Dominant Carrier Rules As They Apply After Section 272 Sunsets*, WC Docket No. 05-333, Memorandum Opinion and Order, 22 FCC Rcd 5207, 5231, para. 47 (2007).

[181] *First Local Number Portability Order*, 11 FCC Rcd at 8434, para. 157.

further reduce the amount of information that a porting-in entity must request from the porting-out entity prior to submitting the simple port request.[182] Further, we seek comment on any other considerations that the Commission should evaluate in the simple port validation process.

57. The evidence in the record also shows that delays in the porting process can arise when the porting-out carrier fails to identify all errors in an LSR at once.[183] If a provider identifies errors one at a time, this necessitates multiple resubmissions of the LSR, and delays the porting process. We agree with commenters such as AT&T that it may not be possible for providers to identify all errors at once, although the porting process will proceed most efficiently if providers identify as many errors as possible at a given time.[184] We seek comment on whether the Commission should adopt a requirement that carriers identify all errors possible in a given LSR and describe the basis for rejection when rejecting a port request. Is such a Commission requirement still necessary since the Commission has mandated four specific data fields to be used for simple port validation?

58. Finally, we seek comment on the benefits and burdens, including the burdens on small entities, of the specific requirements on the validation process proposed above, and any other such requirements.

59. *Porting Intervals.* We tentatively conclude that the Commission should adopt rules reducing the porting interval for simple port requests.[185] We seek comment on that tentative conclusion, and on whether the Commission should establish time limits on the porting process for all types of simple port requests (*i.e.*, wireline-to-wireline ports, wireless-to-wireless ports, and intermodal ports) or just certain types of ports. As noted above, for example, the wireless industry has established a voluntary standard of two and one-half hours for wireless-to-wireless ports.[186] We seek comment on whether the Commission should adopt a rule codifying this standard.

60. We also tentatively conclude that the Commission should adopt rules reducing the porting interval for wireline-to-wireline and intermodal simple port requests, specifically, to a 48-hour porting interval. As we note below, the wireless industry has been successful in streamlining the validation process for wireless-to-wireless porting, and we encourage the industry to evaluate whether similar streamlining measures would work for intermodal or wireline-to-wireline porting.[187] We note, moreover, that pending resolution of this rulemaking proceeding, providers remain free to seek enforcement action

[182] *See, e.g.*, T-Mobile/Sprint Nextel Petition at 4 (raising concerns about carriers rejecting port requests based on incorrect abbreviations); Leap Wireless Comments, CC Docket No. 95-116, at 2 (filed Feb. 8, 2007) (same); MetroPCS Comments, CC Docket No. 95-116, at 6 (filed Feb. 8, 2007) (arguing that some incumbent LECs reject porting requests based on misplaced commas); T-Mobile/Sprint Nextel Reply, CC Docket No. 95-116, at 5-7 (filed Feb. 23, 2007) (stating that some porting-out carriers require the porting-in carrier to request a customer service record (CSR) prior to submitting an LSR or even require an additional "address validation step" before a porting-in carrier can order the CSR).

[183] *See, e.g.*, Charter Comments, CC Docket No. 95-116, at 5-6 (filed Feb. 8, 2007).

[184] *See, e.g.*, Verizon July 27, 2007 *Ex Parte* Letter at 2 (arguing that it is not reasonable to expect carriers to port a telephone number where there are errors in the fields on the number portability request form).

[185] *See supra* note 153 (defining simple ports).

[186] *See Intermodal Number Porting Interval Second Further Notice*, 19 FCC Rcd at 18515-16, para. 2.

[187] *See* T-Mobile/Sprint Nextel Petition at 4 (wireless providers validating port requests require only the use of customer telephone number, account number, and password (if applicable)); *see also Intermodal Number Porting Interval Second Further Notice*, 19 FCC Rcd at 18515-16, para. 2 (noting that the wireless industry has established a voluntary standard of two and one half hours for wireless-to-wireless ports).

against a porting-out carrier that requests validation information that appears to obstruct or delay the porting process.[188]

61. For wireline-to-wireline simple ports, the Commission adopted the NANC's 1997 recommendation of a four business day porting interval.[189] This four day interval also applies to wireline-to-wireless intermodal simple ports.[190] It has been over ten years since the Commission reassessed the porting interval for wireline-to-wireline ports, and commenters suggest that advances in technology allow for the four day porting interval to be reduced.[191] For intermodal porting intervals, the Commission has twice sought comment on whether the porting interval could be reduced.[192] Most recently, the Commission specifically sought comment on detailed NANC proposals for shortening the intermodal porting interval, which included specific timelines for the porting process.[193]

62. While some commenters advocate retaining the current porting intervals, other providers assert that shorter intervals are possible. For example, Comcast asserts that a "next day" standard for wireline ports that, in most cases, would not exceed 36 hours is more appropriate in light of technological advancements and recent competitive developments.[194] Other commenters recommend refreshing the record in the *Intermodal Number Portability FNPRM* and considering the NANC's proposal that would effectively reduce the porting interval to 53 hours.[195] Commenters seeking shorter intervals point out the benefits to consumers and competition arising when ports can occur more quickly.[196]

63. Given that the industry has been unable to reach consensus on an updated industry standard for wireline-to-wireline and intermodal simple ports,[197] we tentatively conclude that the Commission should adopt rules regarding a reduced porting interval and allow the industry to work through the actual implications of such a timeline. In particular, we tentatively conclude that we should adopt a 48-hour porting interval, as it falls between the range of proposed shorter intervals. In setting this interval, we hope to encourage industry discussion and consensus. We seek comment on our tentative conclusions, and whether there are any technical impediments or advances that affect the overall length of the porting interval such that we should adopt different porting intervals for particular types of simple ports (*e.g.*,

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[188] *See, e.g.*, Qwest Comments, CC Docket No. 95-116, at 2 (filed Feb. 8, 2007). *See generally* 47 U.S.C. § 208; 47 U.S.C. § 503(b)(5) (granting the Commission authority to assess a forfeiture penalty against any person who is not a common carrier).

[189] *See Intermodal Number Porting Interval Second Further Notice*, 19 FCC Rcd at 18515, para. 2.

[190] *See Intermodal Number Portability Order*, 18 FCC Rcd at 23712-13, para. 38; *see also Intermodal Number Porting Interval Second Further Notice*, 19 FCC Rcd at 18519, para. 10.

[191] *See, e.g.*, Comcast Comments, CC Docket No. 95-116, at 3 (filed Feb. 8, 2007).

[192] *See Intermodal Number Portability FNPRM*, 18 FCC Rcd at 23715-17, paras. 45-51; *Intermodal Number Porting Interval Second Further Notice*, 19 FCC Rcd at 18519-21, paras. 10-14.

[193] *See Intermodal Number Porting Interval Second Further Notice*, 19 FCC Rcd at 18518, para. 7 (identifying the NANC proposals).

[194] In particular, Comcast proposes the following: (i) A port request received between 7 a.m. and 2 p.m. on Day 1 would be activated on Day 2 at 12:01 a.m.; and (ii) A port request received after 2 p.m. on Day 1 could be activated on Day 3 no later than 12:01 a.m. Comcast Comments, CC Docket No. 95-116, at 9 (filed Feb. 8, 2007). Comcast notes that this interval is similar to one proposed by Sprint in 2004 in response to the *Intermodal Number Portability FNPRM*. *See id.*

[195] *See, e.g.*, Qwest Comments, CC Docket No. 95-116, at 5 (filed Feb. 8, 2007); Verizon Comments, CC Docket No. 95-116, at 2 (filed Feb. 8, 2007); Comcast Comments, CC Docket No. 95-116, at 3, 8-9 (filed Feb. 8, 2007).

[196] *See, e.g.*, Comcast Comments, CC Docket No. 95-116, at 2-3 (filed Feb. 8, 2007).

[197] *See, e.g.*, T-Mobile/Sprint Nextel Reply, CC Docket No. 95-116, at 2 (filed Feb. 23, 2007).

wireline-to-wireline, wireline-to-wireless, wireless-to-wireline). Further, we seek comment on how the Commission should define the various porting interval timelines in terms of operating hours.[198]

64. Finally, we seek comment on the benefits and burdens, including the burdens on small entities, of adopting rules regarding porting intervals for all types of simple port requests.

65. We would encourage interested parties to take into account the fact that as technologies and business practices evolve we would expect that the porting interval would decrease in order to provide consumers as quick and efficient a porting process as possible. We look forward to a complete record on the appropriate porting interval consistent with the shortest reasonable time period.

66. *Other LNP Process Issues.* We note that commenters identify a number of other concerns regarding the LNP process that they assert are hindering the ability of consumers to take advantage of LNP. For example, Charter comments that certain carriers' processes result in cancellation of a subscriber dial tone for port requests that are delayed for operational reasons.[199] Charter also argues that carriers should be (1) required to provide the basis for rejecting a port request at the time of that rejection; (2) required to provide affirmative notice of all changes to their porting requirements and process; and (3) prohibited from making *ad hoc* changes to their procedures.[200] Charter also argues that the Commission should declare that interconnection agreements are not a necessary precondition to effectuating wireline-to-wireline ports.[201] We seek comment on these and any other concerns regarding the LNP process more generally, including the port validation process and porting intervals for non-simple ports.

C. New Dockets

67. In this Notice, we open two new dockets – WC Docket No. 07-243 and WC Docket No. 07-244. All filings made in response to the Notice section on interconnected VoIP provider numbering obligations should be filed in WC Docket No. 07-243. All filings made in response to the Notice sections on port request validation and porting intervals should be filed in WC Docket No. 07-244.

V. PROCEDURAL MATTERS

A. *Ex Parte* Presentations

68. The rulemaking this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[202] Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence

[198] *See, e.g.*, Letter from John R. Hoffman, Chairman, NANC, to Lawrence C. Strickling, Chief, Common Carrier Bureau, FCC, CC Docket No. 95-116, Attach. at 20-21 (filed Nov. 4, 1999) (detailing agreed upon operating hours and holiday schedule for time-dependent operations for the Numbering Portability Administration Center).

[199] Charter Comments, CC Docket No. 95-116, at 7-8 (filed Feb. 8, 2007); *see also* Integra Reply, CC Docket No. 95-116, at 5 (filed Feb. 23, 2007).

[200] Charter Comments, CC Docket No. 95-116, at 9-10 (filed Feb. 8, 2007).

[201] *Id.* at 14-15; *see also Intermodal Number Portability Order*, 18 FCC Rcd at 23711, para. 34 (finding that interconnection agreements are not necessary for the intermodal porting process).

[202] 47 C.F.R. §§ 1.200 *et seq.*

description of the views and arguments presented generally is required.[203] Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules.[204]

B. Comment Filing Procedures

69. Pursuant to sections 1.415 and 1.419 of the Commission's rules,[205] interested parties may file comments and reply comments regarding the Notice on or before the dates indicated on the first page of this document. **All filings related to this Notice of Proposed Rulemaking should refer to WC Docket No. 07-243 or WC Docket No. 07-244. All filings made in response to the Notice section on interconnected VoIP provider numbering obligations should be filed in WC Docket No. 07-243. All filings made in response to the Notice sections on port request validation and porting intervals should be filed in WC Docket No. 07-244.** Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: http://www.fcc.gov/cgb/ecfs/ or the Federal eRulemaking Portal: http://www.regulations.gov. Filers should follow the instructions provided on the website for submitting comments.
  - ECFS filers must transmit one electronic copy of the comments for CC Docket No. 95-116. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.
  - The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
  - U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554.

[203] *See* 47 C.F.R. § 1.1206(b)(2).

[204] 47 C.F.R. § 1.1206(b).

[205] 47 C.F.R. §§ 1.415, 1.419.

70. Parties should send a copy of their filings to the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, Room 5-C140, 445 12th Street, S.W., Washington, D.C. 20554, or by e-mail to cpdcopies@fcc.gov. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

71. Documents in WC Docket Nos. 07-243, 07-244, and 04-36, and CC Docket Nos. 95-116 and 99-200 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street S.W., Room CY-A257, Washington, D.C. 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

C. Final Regulatory Flexibility Analysis

72. As required by the Regulatory Flexibility Act of 1980, *see* 5 U.S.C. § 604, the Commission has prepared Final Regulatory Flexibility Analyses (FRFA) of the possible significant economic impact on small entities of the policies and rules, as proposed, addressed in this document. The FRFA related to Part III.A is set forth in Appendix C, and the FRFA related to Part III.B.2 is set forth in Appendix D.

D. Initial Regulatory Flexibility Analysis

73. As required by the Regulatory Flexibility Act of 1980, *see* 5 U.S.C. § 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in this document. The IRFA is set forth in Appendix E. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice provided below in Appendix E.

E. Paperwork Reduction Act

74. This Order contains new or modified information collection requirements subject the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding.

75. In this Order, the Commission has assessed the effects of imposing LNP and numbering administration contribution requirements on interconnected VoIP providers, and finds that to the extent that interconnected VoIP providers are not already filing FCC Form 499-A annually for other purposes, the information collection burden of doing so in regards to small business concerns will be minimal. Thus, we do not adopt a varied implementation schedule for these requirements.

76. This Notice does not contain proposed information collection(s) subject to the PRA. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198. *See* 44 U.S.C. § 3506(c)(4).

F. Congressional Review Act

77. The Commission will send a copy of this Report and Order, Order on Remand, and Notice of Proposed Rulemaking in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act (CRA). *See* 5 U.S.C. § 801(a)(1)(A).

G. Accessible Formats

78. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov; phone: 202-418-0530 or TTY: 202-418-0432.

VI. ORDERING CLAUSES

79. Accordingly, IT IS ORDERED that pursuant to sections 1, 4(i), 4(j), 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i)-(j), 251, 303(r), the Report and Order in WC Docket No. 04-36 and CC Docket Nos. 95-116 and 99-200 IS ADOPTED, and that Part 52 of the Commission's Rules, 47 C.F.R. Parts 52, is amended as set forth in Appendix B. The Report and Order shall become effective 30 days after publication in the Federal Register. The information collection requirements contained in the Report and Order will become effective following OMB approval.

80. IT IS FURTHER ORDERED that pursuant to section 1, 4(i), 4(j), 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i)-(j), 251, 303(r), the Order on Remand in CC Docket No. 95-116 IS ADOPTED. The Order on Remand shall become effective 30 days after publication in the Federal Register.

81. IT IS FURTHER ORDERED that pursuant to the authority contained in sections 1, 4(i), 4(j), 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i)-(j), 251, 303(r), the Notice of Proposed Rulemaking in WC Docket Nos. 07-243 and 07-244 IS ADOPTED.

82. IT IS FURTHER ORDERED that pursuant to sections 1, 4(i), 4(j), 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i)-(j), 251, 303(r), and section 1.2 of the Commission's rules, 47 C.F.R. § 1.2, the Petition for Declaratory Rulemaking filed by T-Mobile USA, Inc. and Sprint Nextel Corporation on December 20, 2006 IS GRANTED to the extent described herein and otherwise IS DENIED.

83. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, including the two Final Regulatory Flexibility Analyses and the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch

Marlene H. Dortch
Secretary

APPENDIX A

Comments in WC Docket No. 04-36

Comments	Abbreviation
8X8, Inc.	8X8
AARP	AARP
ACN Communications Services, Inc.	ACN
Ad Hoc Telecommunications Users Committee	Ad Hoc
Alcatel North America	Alcatel
Alliance for Public Technology	APT
America's Rural Consortium	ARC
American Foundation for the Blind	AFB
American Public Communications Council	APCC
Amherst, Massachusetts Cable Advisory Committee	Amherst CAC
Arizona Corporation Commission	Arizona Commission
Arctic Slope Telephone Association Cooperative, Inc. Cellular Mobile Systems of St. Cloud, LLC d/b/a Cellular 2000 Comanche County Telephone, Inc. DeKalb Telephone Cooperative, Inc. d/b/a DTC Communications Grand River Mutual Telephone Corporation Interstate 35 Telephone Company KanOkla Telephone Association, Inc. Siskiyou Telephone Company Uintah Basin Telecommunications Association, Inc. Vermont Telephone Company, Inc. Wheat State Telephone, Inc.	Arctic Slope *et al.*
Association for Communications Technology Professionals in Higher Education	ACUTA
Association for Local Telecommunications Services	ALTS
Association of Public-Safety Communications Officials-International, Inc.	APCO
AT&T Corporation	AT&T
Attorney General of the State of New York	New York Attorney General
Avaya, Inc.	Avaya
BellSouth Corporation	BellSouth
Bend Broadband Cebridge Connections, Inc. Insight Communications Company, Inc. Susquehanna Communication	Bend Broadband *et al.*
Boulder Regional Emergency Telephone Service Authority	BRETSA
BT Americas Inc.	BTA
Cablevision Systems Corp.	Cablevision
Callipso Corporation	Callipso
Cbeyond Communications, LLC GlobalCom, Inc. MPower Communications, Corp.	Cbeyond *et al.*
CenturyTel, Inc.	CenturyTel

Charter Communications	Charter
Cheyenne River Sioux Tribe Telephone Authority	Cheyenne Telephone Authority
Cisco Systems, Inc.	Cisco
Citizens Utility Board	CUB
City and County of San Francisco	San Francisco
City of New York	New York City
Comcast Corporation	Comcast
Communication Service for the Deaf, Inc.	CSD
Communications Workers of America	CWA
CompTel/ASCENT	CompTel
Computer & Communications Industry Association	CCIA
Computing Technology Industry Association	CompTIA
Consumer Electronics Association	CEA
Covad Communications	Covad
Cox Communications, Inc.	Cox
CTIA-The Wireless Association	CTIA
Department of Homeland Security	DHS
DialPad Communication, Inc. ICG Communications, Inc. Qovia, Inc. VoicePulse, Inc.	Dialpad *et al.*
DJE Teleconsulting, LLC	DJE
Donald Clark Jackson	Jackson
EarthLink, Inc.	EarthLink
EDUCAUSE	EDUCAUSE
Electronic Frontier Foundation	EFF
Enterprise Communications Association	ECA
Federation for Economically Rational Utility Policy	FERUP
Francois D. Menard	Menard
Frontier and Citizens Telephone Companies	Frontier/Citizens
General Communications, Inc.	GCI
Global Crossing North America, Inc.	Global Crossing
GVNW Consulting, Inc.	GVNW
ICORE, Inc.	ICORE
IEEE-USA	IEEE-USA
Illinois Commerce Commission	Illinois Commerce Commission
Inclusive Technologies	Inclusive Technologies
Independent Telephone & Telecommunications Alliance	ITTA
Information Technology Association of America	ITAA
Information Technology Industry Council	ITIC
Interstate Telcom Consulting, Inc.	ITCI
Ionary Consulting	Ionary
Iowa Utilities Board	Iowa Commission
King County E911 Program	King County
Level 3 Communications LLC	Level 3
Lucent Technologies Inc.	Lucent Technologies
Maine Public Utilities Commissioners	Maine Commissioners
MCI	MCI
Microsoft Corporation	Microsoft
Minnesota Public Utilities Commission	Minnesota Commission

Montana Public Service Commission	Montana Commission
Motorola, Inc.	Motorola
National Association of Regulatory Utility Commission	NARUC
National Association of State Utility Consumer Advocates	NASUCA
National Association of Telecommunications Officers and Advisors National League of Cities National Association of Counties U.S. Conference of Mayors National Association of Towns and Townships Texas Coalition of Cities for Utility Issues Washington Association of Telecommunications Officers and Advisors Greater Metro Telecommunications Consortium Mr. Hood Cable Regulatory Commission Metropolitan Washington Council of Governments Rainier Communications Commission City of Philadelphia City of Tacoma, Washington Montgomery County, Maryland	NATOA *et al.*
National Cable & Telecommunications Association	NCTA
National Consumers League	NCL
National Emergency Number Association	NENA
National Exchange Carrier Association, Inc.	NECA
National Governors Association	NGA
National Grange	National Grange
National Telecommunications Cooperative Association	NTCA
Nebraska Public Service Commission	Nebraska Commission
Nebraska Rural Independent Companies	Nebraska Rural Independent Companies
Net2Phone, Inc.	Net2Phone
New Jersey Board of Public Utilities	New Jersey Commission
New Jersey Division of the Ratepayer Advocate	New Jersey Ratepayer Advocate
New York State Department of Public Service	New York Commission
NexVortex, Inc.	nexVortex
Nortel Networks	Nortel
Nuvio Corporation	Nuvio
Office of Advocacy, U.S. Small Business Administration	SBA
Office of the Attorney General of Texas	Texas Attorney General
Office of the People's Counsel for the District of Columbia	D.C. Counsel
Ohio Public Utilities Commission	Ohio PUC
Omnitor	Omnitor
Organization for the Promotion and Advancement of Small Telecommunications Companies	OPASTCO
Pac-West Telecomm, Inc.	Pac-West
People of the State of California and the California Public Utilities Commission	California Commission
Public Service Commission of the State of Missouri	Missouri Commission
Pulver.com	pulver.com

Qwest Communications International Inc.	Qwest
Rehabilitation Engineering Research Center on Telecommunications Access	RERCTA
Rural Independent Competitive Alliance	RICA
SBC Communications, Inc.	SBC
Self Help for Hard of Hearing People	SHHHP
Skype, Inc.	Skype
Sonic.net, Inc.	Sonic.net
SPI Solutions, Inc.	SPI Solutions
Spokane County 911 Communications	Spokane County 911
Sprint Corporation	Sprint
TCA, Inc. – Telecom Consulting Associates	TCA
Telecommunications for the Deaf, Inc	TDI
Telecommunications Industry Association	TIA
Tellme Networks, Inc	Tellme Networks
Tennessee Regulatory Authority	TRA
Texas Coalition of Cities for Utility Issues	TCCFUI
Texas Commission on State Emergency Communications.	TCSEC
Texas Department of Information Resources	Texas DIR
Time Warner Inc.	Time Warner
Time Warner Telecom	TWTC
TracFone Wireless, Inc.	TracFone
UniPoint Enhanced Services Inc. d/b/a PointOne	PointOne
United States Conference of Catholic Bishops Alliance for Community Media Appalachian People's Actions Coalition Center for Digital Democracy Consumer Action Edgemont Neighborhood Coalition Migrant Legal Action Program	USCCB *et al.*
United States Department of Justice	DOJ
United States Telecom Association	USTA
United Telecom Council The United Power Line Council	UTC *et al.*
USA Datanet Corporation	USAD Datanet
Utah Division of Public Utilities	Utah Commission
Valor Telecommunications of Texas, L.P. and Iowa Telecommunications Services, Inc.	Valor *et al.*
VeriSign, Inc.	VeriSign
Verizon Telephone Company	Verizon
Vermont Public Service Board	Vermont
Virgin Mobile USA, LLC	Virgin Mobile
Virginia State Corporation Commission	Virginia Commission
Voice on the Net Coalition	VON Coalition
Vonage Holdings Corp	Vonage
Western Telecommunications Alliance	WTA
WilTel Communications, LLC	WilTel
Wisconsin Electric Power Company Wisconsin Gas	Wisconsin Electric *et al.*

Yellow Pages Integrated Media Association	YPIMA
Z-Tel Communications, Inc.	Z-Tel

Reply Comments in WC Docket No. 04-36

Reply Comments	Abbreviation
8X8, Inc.	8X8
Ad Hoc Telecom Manufacturer Coalition	Ad Hoc Telecom Manufacturers Coalition
Ad Hoc Telecommunications Users Committee	Ad Hoc
Adam D. Thierer, Director of Telecommunications Studies, Cato Institute	Thierer
Alcatel North America	Alcatel
Alliance for Public Technology et al.	APT *et al.*
American Cable Association	ACA
American Electric Power Service Corporation Duke Energy Corporation Xcel Energy Inc.	American Electric Power *et al.*
Association for Local Telecommunications Services	ALTS
AT&T Corp.	AT&T
Avaya Inc.	Avaya
BellSouth Corporation	BellSouth
Broadband Service Providers Association	BSPA
Cablevision Systems Corp.	Cablevision
Callipso Corporation	Callipso
Central Station Alarm Association	CSAA
Cingular Wireless LLC	Cingular
Cisco Systems, Inc.	Cisco
City and County of San Francisco	San Francisco
Comcast Corporation	Comcast
CompTel/Ascent	CompTel
Consumer Electronics Association	CEA
Consumer Federation of America Consumers Union	CFA *et al.*
Covad Communications	Covad
CTC Communications Corp.	CTS
CTIA-The Wireless Association	CTIA
Department of Defense	DoD
Donald Clark Jackson	Jackson
EarthLink, Inc.	EarthLink
Educause	Educause
Enterprise Communications Association	ECA
Ericsson Inc.	Ericsson
Florida Public Service Commission	Florida Commission
Francois D. Menard	Menard
General Communication (GCI)	GCI
Global Crossing North America, Inc.	Global Crossing
Independent Telephone & Telecommunications Alliance	ITTA
Information Technology Association of America	Information Technology Association of America
Intergovernmental Advisory Committee	IAC
Intrado Inc.	Intrado

Knology, Inc.	Knology
Level 3 Communications LLC	Level 3
Massachusetts Office of the Attorney General	Massachusetts Attorney General
MCI	MCI
Montana Public Service Commission	Montana Commission
Motorola, Inc.	Motorola
National Association of State Utility Consumer Advocates	NASUCA
National Association of Telecommunications Officers and Advisors National League of Cities National Association of Counties U.S. Conference of Mayors National Association of Towns and Townships Texas Coalition of Cities for Utility Issues Washington Association of Telecommunications Officers and Advisors Greater Metro Telecommunications Consortium Mr. Hood Cable Regulatory Commission Metropolitan Washington Council of Governments Rainier Communications Commission City of Philadelphia City of Tacoma, Washington Montgomery County, Maryland	NATOA *et al.*
National Cable & Telecommunications Association	NCTA
National Emergency Number Association	NENA
National Exchange Carrier Association, Inc.	NECA
Nebraska Public Service Commission	Nebraska Commission
Nebraska Rural Independent Companies	Nebraska Rural Independent Companies
Net2Phone, Inc.	Net2Phone
New Jersey Division of the Ratepayer Advocate	New Jersey Ratepayer Advocate
New York State Department of Public Service	New York Commission
Nextel Communications, Inc.	Nextel
Nuvio Corporation	Nuvio
Office of the People's Counsel for the District of Columbia	D.C. Counsel
Organization for the Promotion and Advancement of Small Telecommunications Companies	OPASTCO
Pac-West Telecomm, Inc.	Pac-West
Pennsylvania Public Utility Commission	Pennsylvania Commission
Public Service Commission of Wisconsin	Wisconsin Commission
Qwest Communications International Inc.	Qwest
Regulatory Studies Program (RSP) of the Mercatus Center at George Mason University	Mercatus Center
Rehabilitation Engineering Research Center on Telecommunications Access	RERCTA
RNKL, Inc. d/b/a RNK Telecom	RNK
Rural Independent Competitive Alliance	RICA
SBC Communications Inc.	SBC
Skype, Inc.	Skype
Southern Communications Services, Inc. d/b/a Southern	Southern LINC

LINC	
Sprint Corporation	Sprint
Telecommunications Industry Association	TIA
Tellme Networks, Inc	Tellme Networks
Texas Statewide Telephone Cooperative, Inc.	Texas Statewide Telephone Cooperative
Time Warner Telecom, Inc.	TWTC
T-Mobile USA, Inc.	T-Mobile
TracFone Wireless, Inc.	TracFone
United States Conference of Catholic Bishops Alliance for Community Media Appalachian Peoples' Action Coalition Center for Digital Democracy Consumer Action Edgemont Neighborhood Coalition Migrant Legal Action Program	USCCB *et al.*
United States Department of Justice	DOJ
United States Telecom Association	USTA
USA Datanet Corporation	USA Datanet
Utah Division of Public Utilities	Utah Commission
VeriSign, Inc.	VeriSign
Verizon Telephone Companies	Verizon
Voice on the Net Coalition	VON Coalition
Wisconsin Department of Public Instruction	Wisconsin Department of Public Instruction

Comments in Response to the T-Mobile/Sprint Nextel Petition
CC Docket No. 95-116

Comments	**Abbreviation**
AT&T Inc.	AT&T
California Public Utilities Commission and the People of the State of California	California Commission
Charter Communications, Inc.	Charter
Comcast Corporation and its affiliates	Comcast
CTIA – The Wireless Association®	CTIA
The Embarq Local Operation Companies	Embarq
Iowa Utilities Board	Iowa Utilities Board
Leap Wireless International, Inc. and its Cricket subsidiaries	Leap Wireless
MetroPCS Communications, Inc.	MetroPCS
National Association of State Utility Consumer Advocates	NASUCA
Nebraska Public Service Commission	Nebraska Commission
PCIA – The Wireless Infrastructure Association	PCIA
Qwest Corporation and Qwest Communications Corporation	Qwest
Time Warner Telecom Inc., Cbeyond, Inc. and One Communications Corp.	TWTC *et al.*
United States Cellular Corporation	USCC
The regulated, wholly owned subsidiaries of Verizon Communications, Inc.	Verizon

Reply Comments in Response to the T-Mobile/Sprint Nextel Petition
CC Docket No. 95-116

Reply Comments	Abbreviation
Integra Telecom, Inc.	Integra
Level 3 Communications, LLC	Level 3
National Association of Regulatory Utility Commissioners	NARUC
National Association of State Utility Consumer Advocates	NASUCA
T-Mobile USA, Inc. and Sprint Nextel Corporation	T-Mobile/Sprint Nextel
United States Telecom Association	USTA

Comments in Response to *Intermodal Number Portability Order* IRFA
CC Docket No. 95-116

Comments	Abbreviation
Alexicon Telecommunications Consulting	Alexicon
Central Texas Telephone Cooperative, Inc., Chariton Valley Telephone Corporation, Comanche County Telephone Company, Inc., Kaplan Telephone Company, Inc., Leaco Rural Telephone Cooperative, Inc., Valley Telephone Cooperative, Inc.	Central Texas Telephone Cooperative *et al.*
CTIA – The Wireless Association®	CTIA
Iowa Utilities Board	Iowa Utilities Board
John Staurulakis, Inc.	John Staurulakis
Missouri Small Telephone Company Group	Missouri Small Telephone Company Group
Montana Small Rural Independents	Montana Small Rural Independents
Montana Independent Telecommunications Systems	Montana Independent Telecommunications Systems
National Telecommunications Cooperative Association & Organization for the Promotion and Advancement of Small Telecommunications Companies	NTCA/OPASTCO
The Nebraska Rural Independent Companies	Nebraska Rural Independent Companies
NTC Communications, L.L.C.	NTC Communications
Rural Iowa Independent Telephone Association	Rural Iowa Independent Telephone Association
Office of Advocacy, U.S. Small Business Administration	Office of Advocacy, U.S. Small Business Administration
South Dakota Telecommunications Association	South Dakota Telecommunications Association
Sprint Nextel Corporation	Sprint Nextel
United States Telecom Association	USTA
Verizon Wireless	Verizon Wireless

Reply Comments in Response to *Intermodal Number Portability Order* IRFA
CC Docket No. 95-116

Reply Comments	Abbreviation
Central Texas Telephone Cooperative, Inc., Chariton Valley Telephone Corporation, Comanche County	Central Texas Telephone Cooperative *et al.*

Telephone Company, Inc., Kaplan Telephone Company, Inc., Leaco Rural Telephone Cooperative, Inc., Valley Telephone Cooperative, Inc.	
CTIA – The Wireless Association®	CTIA
Dobson Cellular Systems, Inc.	Dobson Cellular
Missouri Small Telephone Company Group	Missouri Small Telephone Company Group
Montana Independent Telecommunications Systems	Montana Independent Telecommunications System
National Telecommunications Cooperative Association & Organization for the Promotion and Advancement of Small Telecommunications Companies	NTCA/OPASTCO
The Nebraska Rural Independent Companies	Nebraska Rural Independent Companies
South Dakota Telecommunications Association	South Dakota Telecommunications Association
Sprint Nextel Corporation	Sprint Nextel
TCA, Inc.	TCA
T-Mobile USA, Inc.	T-Mobile
United States Telecom Association	USTA
Verizon Wireless	Verizon Wireless

APPENDIX B

Final Rules

Part 52 of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 52 – NUMBERING

1. The authority citation for part 52 is amended as follows:

   Authority: Secs. 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. 151, 152, 154 and 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201-05, 207-09, 218, 225-27, 251-52, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201-05, 207-09, 218, 225-27, 251-52, 271 and 332 unless otherwise noted.

2. Section 52.12(a)(1)(i) is amended to read as follows:

   * * * * *

   (a)(1) * * *

   (i) The NANPA and B&C Agent may not be an affiliate of any telecommunications service provider(s) as defined in the Telecommunications Act of 1996, or an affiliate of any interconnected VoIP provider as that term is defined in § 52.21(h). "Affiliate" is a person who controls, is controlled by, or is under the direct or indirect common control with another person. A person shall be deemed to control another if such person possesses, directly or indirectly–

   * * * * *

3. Section 52.16 is amended by adding the following paragraph:

   * * * * *

   (g) For the purposes of this rule, the term "carrier(s)" shall include interconnected VoIP providers as that term is defined in § 52.21(h).

4. Section 52.17 is amended by adding the following paragraph:

   * * * * *

   (c) For the purposes of this rule, the term "telecommunications carrier" or "carrier" shall include interconnected VoIP providers as that term is defined in § 52.21(h).

5. Section 52.21 is amended by redesignating paragraphs (h) through (r) as paragraphs (i) through (s), and by adding new paragraph (h) to read as follows:

   * * * * *

   (h) The term "interconnected VoIP provider" is an entity that provides interconnected VoIP service as that term is defined in section 9.3 of these rules.

   * * * * *

6. Section 52.23 is amended by adding the following paragraph:

* * * * *

(h)(1) Porting from a wireline carrier to a wireless carrier is required where the requesting wireless carrier's "coverage area," as defined in paragraph (h)(2), overlaps the geographic location in which the customer's wireline number is provisioned, provided that the porting-in carrier maintains the number's original rate center designation following the port.

(2) The wireless "coverage area" is defined as the area in which wireless service can be received from the wireless carrier.

7. Section 52.32 is amended by adding the following paragraph:

* * * * *

(e) For the purposes of this rule, the term "telecommunications carrier" shall include interconnected VoIP providers as that term is defined in § 52.21(h); and "telecommunications service" shall include "interconnected VoIP service" as that term is defined in section 9.3 of these rules.

8. Section 52.33(b) is amended to read as follows:

* * * * *

(b) All interconnected VoIP providers and telecommunications carriers other than incumbent local exchange carriers may recover their number portability costs in any manner consistent with applicable state and federal laws and regulations.

9. Section 52.34 is added to read as follows:

§ 52.34 Obligations regarding local number porting to and from interconnected VoIP providers.

(a) An interconnected VoIP provider must facilitate an end-user customer's valid number portability request, as it is defined in this subpart, either to or from a telecommunications carrier or another interconnected VoIP provider. "Facilitate" is defined as the interconnected VoIP providers' affirmative legal obligation to take all steps necessary to initiate or allow a port-in or port-out itself or through the telecommunications carriers, if any, that it relies on to obtain numbering resources, subject to a valid port request, without unreasonable delay or unreasonable procedures that have the effect of delaying or denying porting of the NANP-based telephone number.

(b) An interconnected VoIP provider may not enter into any agreement that would prohibit an end-user customer from porting between interconnected VoIP providers, or to or from a telecommunications carrier.

APPENDIX C

Final Regulatory Flexibility Analysis (Interconnected VoIP Services)

WC Docket No. 04-36

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *IP-Enabled Services Notice* in WC Docket 04-36.[2] The Commission sought written public comment on the proposals in the notice, including comment on the IRFA.[3] We received comments specifically directed toward the IRFA from three commenters in WC Docket No. 04-36. These comments are discussed below. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[4]

A. Need for, and Objectives of, the Rules

2. This Report and Order extends LNP obligations to interconnected voice over Internet Protocol (VoIP) providers to ensure that customers of such VoIP providers may port their North American Numbering Plan (NANP) telephone numbers when changing providers. Consumers will now be able to take advantage of new telephone services without losing their telephone numbers, which should in turn facilitate greater competition among telephony providers by allowing customers to respond to price and service changes. Additionally, this Report and Order extends to interconnected VoIP providers the obligation to contribute to shared numbering administration and number portability costs. We believe these steps we take to ensure regulatory parity among providers of similar services will minimize marketplace distortions arising from regulatory advantage.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

3. In this section, we respond to comments filed in response to the IRFA.[5] To the extent we received comments raising general small business concerns during this proceeding, those comments are discussed throughout the Report and Order.

4. The Small Business Administration (SBA) comments that the Commission's Notice does not contain concrete proposals and is more akin to an advance notice of proposed rulemaking or a notice of inquiry.[6] We disagree with the SBA and Menard that the Commission should postpone acting in this proceeding – thereby postponing extending the application of the LNP and numbering administration support obligations to interconnected VoIP services – and instead should reevaluate the economic impact and the compliance burdens on small entities and issue a further notice of proposed rulemaking in conjunction with a supplemental IRFA identifying and analyzing the economic impacts on small entities

[1] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601-12, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

[2] *See IP-Enabled Services*, WC Docket No. 04-36, Notice of Proposed Rulemaking, 19 FCC Rcd 4863, 4917, para. 91 & Appendix A (2004) (*IP-Enabled Services Notice*).

[3] *See IP-Enabled Services Notice*, 19 FCC Rcd at 4917, para. 91 & Appendix A.

[4] *See* 5 U.S.C. § 604.

[5] *See* SBA Comments, WC Docket No. 04-36 (filed May 28, 2004); Menard Comments, WC Docket No. 04-36 (filed May 28, 2004); Menard Reply, WC Docket No. 04-36 (filed July 15, 2004).

[6] *See* SBA Comments, WC Docket No. 04-36, at 1.

and less burdensome alternatives.[7] We believe these additional steps suggested by SBA and Menard are unnecessary because small entities already have received sufficient notice of the issues addressed in today's Report and Order,[8] and because the Commission has considered the economic impact on small entities and what ways are feasible to minimize the burdens imposed on those entities, and, to the extent feasible, has implemented those less burdensome alternatives.

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

5. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein.[9] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[10] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[11] A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[12]

6. *Small Businesses*. Nationwide, there are a total of approximately 22.4 million small businesses according to SBA data.[13]

7. *Small Organizations*. Nationwide, there are approximately 1.6 million small organizations.[14]

8. *Small Governmental Jurisdictions*. The term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand."[15] Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.[16] We estimate that, of this total, 84,377 entities

[7] *See* SBA Comments, WC Docket No. 04-36, at 2, 4, 6; Menard Comments, WC Docket No. 04-36; Menard Reply, WC Docket No. 04-36, at 4.

[8] The *IP-Enabled Services Notice* specifically sought comment on whether numbering obligations are appropriate in the context of IP-enabled services and whether action relating to numbering resources is desirable to facilitate the growth of IP-enabled services, while at the same time continuing to maximize the use and life of numbering resources in the North American Numbering Plan. The Commission published a summary of that notice in the Federal Register. *See IP-Enabled Services Notice*, 19 FCC Rcd at 4911-14, paras. 73-76; *Regulatory Requirements for IP-Enabled Services*, WC Docket No. 04-36, Notice of Proposed Rulemaking, 69 FR 16193 (Mar. 29, 2004). We note that a number of small entities submitted comments in this proceeding. *See supra* Appendix A.

[9] 5 U.S.C. §§ 603(b)(3), 604(a)(3).

[10] 5 U.S.C. § 601(6).

[11] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such terms which are appropriate to the activities of the agency and publishes such definitions(s) in the Federal Register."

[12] 15 U.S.C. § 632.

[13] *See* SBA, Programs and Services, SBA Pamphlet No. CO-0028, at page 40 (July 2002).

[14] Independent Sector, The New Nonprofit Almanac & Desk Reference (2002).

[15] 5 U.S.C. § 601(5).

[16] U.S. Census Bureau, Statistical Abstract of the United States: 2006, Section 8, page 272, Table 415.

were "small governmental jurisdictions."[17] Thus, we estimate that most governmental jurisdictions are small.

1. Telecommunications Service Entities

a. Wireline Carriers and Service Providers

9. We have included small incumbent local exchange carriers (LECs) in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees) and "is not dominant in its field of operation."[18] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.[19] We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

10. *Incumbent LECs.* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent LECs. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[20] According to Commission data,[21] 1,303 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,303 carriers, an estimated 1,020 have 1,500 or fewer employees and 283 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our action.

11. *Competitive LECs, Competitive Access Providers (CAPs), "Shared-Tenant Service Providers," and "Other Local Service Providers."* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[22] According to Commission data,[23] 859 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive LEC services. Of these 859 carriers, an estimated 741 have 1,500 or fewer employees and 118 have more than 1,500 employees. In addition, 16 carriers have reported that they are "Shared-Tenant

[17] We assume that the villages, school districts, and special districts are small, and total 48,558. *See* U.S. Census Bureau, Statistical Abstract of the United States: 2006, section 8, page 273, Table 417. For 2002, Census Bureau data indicate that the total number of county, municipal, and township governments nationwide was 38,967, of which 35,819 were small. *Id.*

[18] 15 U.S.C. § 632.

[19] Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small-business concern," which the RFA incorporates into its own definition of "small business." *See* 15 U.S.C. § 632(a) (Small Business Act); 5 U.S.C. § 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. *See* 13 C.F.R. § 121.102(b).

[20] 13 C.F.R. § 121.201, NAICS code 517110.

[21] FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, *Trends in Telephone Service* at Table 5.3, page 5-5 (Feb. 2007) (*Trends in Telephone Service*). This source uses data that are current as of October 20, 2005.

[22] 13 C.F.R. § 121.201, NAICS code 517110.

[23] *Trends in Telephone Service* at Table 5.3.

Service Providers," and all 16 are estimated to have 1,500 or fewer employees. In addition, 44 carriers have reported that they are "Other Local Service Providers." Of the 44, an estimated 43 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, "Shared-Tenant Service Providers," and "Other Local Service Providers" are small entities.

12. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[24] According to Commission data,[25] 184 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 181 have 1,500 or fewer employees and three have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by our action.

13. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[26] According to Commission data,[27] 881 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 853 have 1,500 or fewer employees and 28 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our action.

14. *Payphone Service Providers (PSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for payphone services providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[28] According to Commission data,[29] 657 carriers have reported that they are engaged in the provision of payphone services. Of these, an estimated 653 have 1,500 or fewer employees and four have more than 1,500 employees. Consequently, the Commission estimates that the majority of payphone service providers are small entities that may be affected by our action.

15. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[30] According to Commission data,[31] 330 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 309 have 1,500 or fewer employees and 21 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by our action.

16. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a

[24] 13 C.F.R. § 121.201, NAICS code 517310.

[25] *Trends in Telephone Service* at Table 5.3.

[26] 13 C.F.R. § 121.201, NAICS code 517310.

[27] *Trends in Telephone Service* at Table 5.3.

[28] 13 C.F.R. § 121.201, NAICS code 517110.

[29] *Trends in Telephone Service* at Table 5.3.

[30] 13 C.F.R. § 121.201, NAICS code 517110.

[31] *Trends in Telephone Service* at Table 5.3.