

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04M-221T

IN THE MATTER OF P C TELCOM'S PETITION FOR SUSPENSION OF LNP
REQUIREMENTS.

DECISION GRANTING PETITION

Mailed Date: June 11, 2004

Adopted Date: June 2, 2004

I. BY THE COMMISSION

A. Statement

1. On May 3, 2004, Phillips County Telephone Company (PC Telecom) filed a Combined Petition for Suspension and Motion for Expedited Treatment and Waiver of Response Time (Petition) requesting that the Commission temporarily suspend its wireline to wireless local number portability (LNP) obligations to Commercial Mobile Radio Service (CMRS or wireless) providers in its exchange until November 24, 2004. PC Telecom makes this request pursuant to § 251(f)(2) of the Telecommunications Act of 1996 (the Act), 47 U.S.C. § 251(f)(2).

2. At our weekly meeting on May 5 2004, we shortened the notice period of this Petition to 15 days. No interventions were filed in this matter.

3. The PC Telecom exchange is geographically located outside the Denver Metropolitan Statistical Area (MSA), which is the only MSA in Colorado that is in the top 100 in the United States. The Federal Communications Commission (FCC) rules require that telecommunications carriers providing service outside the top 100 MSAs provide LNP by May 24, 2004, or six months after receiving a request to port a number, whichever is later.

PC Telecom, in its Petition, requests that we find under § 251(f)(2) that it is contrary to the public interest, unduly economically burdensome, and technically infeasible for the Petitioner to implement LNP in its exchange.

4. Section 251(f)(2) of the Act provides:

Suspension and modifications for rural carriers. A local exchange carrier with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide may petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c) of this section to telephone exchange service facilities specified in such petition. 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 service 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.

5. PC Telecom qualifies as a “rural telephone company” as defined in 47 U.S.C. § 153(37) and is a local exchange carrier with fewer than 2 percent of the nation's subscriber lines installed in the aggregate nationwide.

6. PC Telecom states in its Petition that one of the most significant reasons why this Petition should be granted, and why the implementation of LNP by rural carriers is contrary to the public interest and unduly economically burdensome, is because of the complete lack of any demand for LNP in the PC Telecom exchange. PC Telecom asserts that it has not received any customer requests to port a number since the enactment of the Act eight years ago, even with the increased publicity since November 2003.

7. PC Telecom does admit in its Petition that it has received three requests for LNP service by May 24, 2004 from CMRS providers, T-Mobile, Verizon Wireless, and NE Colorado Cellular, Inc. To PC Telecom's knowledge, none of its end-use customers has made any request to have his or her wireline number ported to a wireless carrier. We note that none of the CMRS providers listed filed an intervention in this docket.

8. In its November 10, 2003 order,¹ the FCC stated: "Carriers inside the 100 largest MSAs (or outside the 100 largest MSAs, after the transition period) may file petitions for waiver of their obligation to port numbers to wireless carriers, if they can provide substantial, credible evidence that there are special circumstances that warrant departure from existing rules." This high level of scrutiny imposed by the FCC is a direct result of the FCC's strong statement that "we continue to deem rapid implementation of number portability to be in the public interest."² Further, in its November 10, 2003 order, the FCC reiterated its position that "number portability promotes competition between telecommunications service providers by, among other things, allowing customers to respond to price and service changes without changing their telephone numbers."³

9. We agree with PC Telecom that consumers will not likely be adversely impacted by the grant of the requested six-month waiver to this carrier. According to the Petition, PC Telecom is in the process of making the necessary arrangements to port calls by contracting with a vendor to provide the data dip services. PC Telecom states that it has not had a full opportunity to implement and test the arrangements it has made to become fully LNP compliant.

¹ See In Re Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, CC Docket No. 95-116 (November 10, 2003 Order).

² See In Re Telephone Number Portability, CC Docket No. 95-116 (January 16, 2004 Order).

³ November 10, 2003 Order, at ¶ 4.

This fact and that fact that this is an uncontested matter, demonstrate to us an impracticality of imposing a larger economic burden by denying the petition on PC Telecom's customers without reason.

10. We agree with the FCC's statement in its January 16, 2004 order, that:

. . . [I]n order to offer intermodal portability to their subscribers, these smaller carriers must acquire the hardware and software necessary to provide porting, make the necessary network upgrades, and ensure that their upgraded networks work reliably and accurately. Some of the Petitioners also assert that Two Percent Carriers often lack the experience and technical experience with number porting to quickly implement the necessary upgrades to their systems to ensure accurate porting. Accordingly, we conclude that special circumstances exist to grant Two Percent Carriers who have not previously upgraded their systems to support LNP a limited amount of additional time to overcome the technological obstacles they face to successfully meet a request for wireline-to-wireless porting.⁴

11. In that order, the FCC granted these rural providers an additional six months to provide LNP. We find that the requested six-month waiver of the LNP requirements should give PC Telecom adequate time to finish the necessary facilities hardware and software upgrades, and to work with vendors for the administration part of portability.

12. PC Telecom is required to implement LNP in its exchange no later than November 24, 2004, absent further order from this Commission.

II. ORDER

A. The Commission Orders That:

1. The Petition for Suspension of the Local Number Portability Requirements of Phillips County Telephone Company is granted consistent with the above discussion.

⁴ January 16, 2004 Order.

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
June 2, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners