

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 04M-203T

---

IN THE MATTER OF RYE TELEPHONE COMPANY'S REQUEST FOR SUSPENSION OF  
WIRELINE TO WIRELESS NUMBER PORTABILITY OBLIGATIONS PURSUANT TO  
§ 251(f)(2) OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED.

---

**INITIAL COMMISSION DECISION APPROVING  
STIPULATION AND SETTLEMENT AGREEMENT,  
VACATING HEARING DATE, AND CONSOLIDATING  
DOCKET WITH DOCKET NO. 04M-202T**

---

Mailed Date: August 4, 2004  
Adopted Date: August 3, 2004

**I. BY THE COMMISSION**

**A. Statements, Findings, and Conclusions**

1. On April 27, 2004, Rye Telephone Company (Rye) filed a Petition for Suspension of Wireline to Wireless Number Portability Obligations requesting that the Commission temporarily suspend its wireline to wireless local number portability (LNP) obligations to Commercial Mobile Radio Service (Wireless) providers in its Kim exchange until December 31, 2005. The petition was filed under the provisions of § 251(f)(2) of the Communications Act of 1934, as amended.

2. On April 28, 2004, we shortened the notice period to ten days.

3. On May 10, 2004, WWC Holding Company, Inc. (Western Wireless), filed an Entry of Appearance and Notice of Intervention or, in the Alternative Petition to Intervene.

4. The Federal Communications Commission (FCC) Rules require that non-rural telecommunications carriers providing service in the nation's top 100 Metropolitan Statistical

Areas (MSAs) must provide LNP to all telecommunications carriers including wireless providers, by November 24, 2003. Rural carriers serving in areas inside the top 100 MSAs and all carriers serving outside the top 100 MSAs must provide LNP by May 24, 2004, or six months after receiving a request to port a number, whichever is later.

5. Section 251(f)(2) of the Communications Act states:

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.

6. Rye requests that we find that pursuant to § 251(f)(2) that it is contrary to public interest, unduly economically burdensome, and technically infeasible for Rye to implement LNP in its Kim exchange.

7. Rye qualifies as a "rural telephone company" as defined in 47 U.S.C. § 153(37). It is a local exchange carrier with fewer than 2 percent of the nation's subscriber lines installed in the aggregate nationwide.

8. Rye states that the costs for Rye to implement LNP to port numbers and associated wireless calls to wireless carriers' facilities in its Kim exchange outweigh any

customer or public benefit at this time and make implementation technically and economically infeasible. Rye does not make a request for suspension of LNP requirements for its Colorado City or Rye exchanges, only for the Kim exchange. Rye asserts that in order to become LNP capable in its Kim exchange, it will be required to upgrade its Redcom MDX switch which will require significant work and network upgrades that will not be completed until the fourth quarter of 2005. The costs for software, installation, field assistance, and network engineering are estimated to be \$39,400 or \$3.77 for each of Rye's 174 Kim exchange customers per month over a five-year recovery period. This cost estimate does not include costs for the necessary SS7 links, third party vendor services, or other administrative charges. Rye believes that the economic burden to its customers for service that perhaps one or two might actually choose is completely disproportionate to any benefit.

9. Rye states in its petition that it has received one request for LNP from a wireless provider, requesting service by May 24, 2004. None of its end-use customers has made a request to have a wireline number ported to a wireless carrier. No wireless carrier has provided an estimate of the number of ported customers that can reasonably be expected.

10. Rye requests a suspension for its Kim exchange until December 31, 2005, or until the FCC and this Commission have considered and resolved the remaining technical and regulatory LNP implementation issues, whichever occurs first.

11. In its in its Petition for Intervention Western Wireless states that it holds FCC licenses to provide service in Pueblo, Colorado MSA 214 which includes Rye's service territory. Western Wireless issued a request for implementation of LNP to Rye.

12. By Decision No. C04-0589, mailed on June 3, 2004, we granted Western Wireless' Petition to Intervene. We also suspended Rye's obligation to implement LNP in the

Kim exchange pending a final decision in this proceeding. We further ordered that the Petition for Suspension of LNP obligations of Rye be set for hearing before an Administrative Law Judge.

13. By Decision No. R04-0762-I, the hearing of this matter was scheduled for July 29, 2004.

14. By Decision No. C04-0746, mailed on July 7, 2004, we issued an Order for Initial Commission Decision pursuant to § 40-6-109(6), C.R.S. Since § 251(f)(2) of the Communications Act of 1934 as amended requires that a state commission act upon any petition filed under the statute within 180 days of its filing, the due and timely execution of our functions imperatively and unavoidably requires us to enter an initial Commission decision in this case.

15. On July 21, 2004, Rye and Western Wireless filed a Joint Motion to Approve Stipulation and Settlement, Vacate Hearing Date, Consolidate Docket with Docket No. 04M-202T, and for the Commission to retain jurisdiction.

16. Under the terms of the Stipulation and Settlement Agreement, the parties state that there are technical limitations surrounding the Redcom MDX switch used by Rye in its Kim exchange. These limitations impact Rye's ability to upgrade the Redcom MDX switch in time to meet its current LNP obligations relating to the Kim exchange.

17. Rye and Western Wireless agree on an LNP implementation schedule in Rye's Kim exchange summarized below and fully stated in the Stipulation and Settlement attached to this decision as Exhibit A.

18. Rye will provide a written status report to the Commission and Commission Staff by June 3, 2005. Rye will make the report available to Western Wireless. Rye will give a detailed description of its progress in implementing LNP and will identify all remaining issues to

be resolved and identify any technical or vendor difficulties that could jeopardize compliance with the LNP implementation schedule. The parties agree that they may request a technical conference to discuss the status report. Rye states that if it becomes aware of difficulties in implementing LNP, it will inform the Commission and Western Wireless as soon as it learns of any difficulty.

19. The parties agree that by December 30, 2005, or six months following the receipt of a *bona fide* request, whichever date is later, Rye will make intermodel LNP available to Western Wireless in Rye's Kim exchange unless the Commission grants additional relief.

20. Prior to December 30, 2005, or six months after submitting a *bona fide* request, whichever date is later, Western Wireless agrees to establish direct two-way points of interconnection with Rye within the Kim exchange and the Rye/Colorado City exchange. The routing of all LNP traffic exchange between Western Wireless and Rye will pass through these points of interconnection. Western Wireless may alternatively elect not to have a direct connection with Rye. In this case, Western Wireless will be financially responsible for any and all costs relating to the routing of traffic outside Rye's Kim and Rye/Colorado City network districts.

21. The parties agree that the Commission retains jurisdiction over this matter until LNP is implemented by Rye in the Kim exchange, and agree that this docket should remain open until that time.

22. It is found that the Stipulation and Settlement Agreement filed on July 21, 2004 by Rye and Western Wireless is in the public interest and should be approved.

23. Rye and Western Wireless in its Joint Motion to Approve the Stipulation and Settlement requests that this docket be consolidated with Docket No. 04M-202T, *In the Matter of*

*South Park Telephone Company's Request for Suspension of Wireline to Wireless Number Portability Obligations Pursuant to § 251(f)(2) of The Communications Act of 1934, as amended.*

The parties state that in the event a hearing, workshop, or technical conference is required in the future, consolidation of the two dockets is appropriate since they are substantially similar and the rights of the parties will not be prejudiced.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The Stipulation and Settlement Agreement filed by Rye Telephone Company and WWC Holding Company, Inc., on July 21, 2004, attached to this Decision as Exhibit A is approved.

2. Rye Telephone Company shall no later than December 30, 2005, or six months following the receipt of a *bona fide* request, whichever date is later, make intermodel local number portability available to WWC Holding Company, Inc., in Rye Telephone Company's Kim exchange, unless the Commission grants additional relief based on the information in the status report or for any extraordinary, unforeseen events that occur after June 3, 2005.

3. The hearing date of July 29, 2004 is vacated.

4. The request of Rye Telephone Company and WWC Holding Company, Inc., to consolidate the instant docket with Docket No. 04M-202T is granted.

5. The Commission retains jurisdiction over this matter until local number portability is implemented by Rye Telephone Company in its Kim exchange. This docket shall remain open until that time.

6. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
August 3, 2004.**

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Commissioners