

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

Socket Telecom, LLC,)	
)	
Complainant,)	
)	
v.)	Case No. TC-2007-0341
)	
CenturyTel of Missouri, LLC dba)	
CenturyTel and Spectra Communications)	
Group, LLC dba CenturyTel)	
)	
Respondents.)	

**SOCKET’S MEMORANDUM OF LAW REGARDING SUMMARY
DETERMINATION**

COMES NOW Socket Telecom, LLC (Socket), pursuant to 4 CSR 240-2.117, and submits its Memorandum of Law Regarding Summary Determination.

As indicated in Socket’s Response and Cross Motion, the Commission should determine as a matter of law that CenturyTel is required to port numbers for Socket and the customers Socket has won from CenturyTel, under the circumstances presented in this case.

Respondents cloud the issues in this case by repeatedly describing situations as involving "changes in location", using the word “location” in a colloquial manner rather than with the meaning that has been ascribed to it by the FCC in the specific context of its number portability rules. Once the factual situations at issue are examined in a precise manner and in the context of the FCC’s interpretations of its rules, it becomes plain that Socket is entitled to relief herein.

47 USC 251(b)(2) requires CenturyTel “to provide, to the extent technically feasible, number portability in accordance with the requirements prescribed by” the FCC.

Service Provider Portability is defined by FCC rules as “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.”¹

This is also the definition of Number Portability by statute and rule.² The requirement for number portability was deemed essential to meaningful competition in the local exchange telephone market because of the predicted reluctance of customers to switch carriers if they had to change telephone numbers. In establishing requirements for number portability, Congress and the FCC recognized that, as a practical matter, the benefits of competition would not be realized if new entrant local exchange service providers were unable to win customers from incumbent providers due to economic or operational barriers.³

Location portability, also referred to as geographic portability, is defined as “the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when moving from one physical location to another.”⁴

The portability element essential to lowering barriers to entry and promoting competition in the local exchange market is the ability for users to keep telephone

¹ 47 CFR 52.21(q)

² 47 USC 153(46); 47 CFR 52.21(l)

³ As stated in the legislative history of the Telecommunications Act of 1996, “the ability to change service providers is only meaningful if a customer can retain his or her local telephone number.” House of Rep. Comm. On Commerce Report on HR 1555 at 72 (July 24, 1995)(House Report)(cited by FCC in its First Report and Order and Further Notice of Proposed Rulemaking, *In the matter of Telephone Number Portability* CC Docket 95-116, ¶ 2 (July 2, 1996), hereinafter First Report and Order).

⁴ 47 CFR 52.21(j)

numbers *when switching from one carrier to another*. Implementation of this ability presented a considerable technical and operational challenge to the industry starting in 1996. Although the possibility of also enabling users to retain their numbers regardless of their location was examined by the NANC and its working groups, and addressed by the FCC in its First Report and Order, a number of critical problems over and above those identified for service provider portability were identified, including: (1) loss of geographic identity of one's telephone number; (2) lack of industry consensus as to the proper geographic scope of location portability; (3) substantial modification of billing systems and the consumer confusion regarding charges for calls; (4) loss of the ability to use 7-digit dialing schemes; (5) the need to restructure directory assistance and operator services; (6) coordination of number assignments for both customer and network identification; (7) network and switching modifications to handle a two-tiered numbering system; (8) development and implementation of systems to replace 1+ as toll identification; and (9) possible adverse impact on E911 services. As the FCC summarized its concerns:

Our chief concern is that users currently associate area codes with geographic areas and assume that the charges they incur will be in accordance with the calling rates to that area. Location portability would create consumer confusion and result in consumers inadvertently making, and being billed for, toll calls. Consumers would be forced to dial ten, rather than seven, digits to place local calls to locations beyond existing rate centers. In order to avoid this customer confusion, carriers, and ultimately consumers, would incur the additional costs of modifying carriers' billing systems, replacing 1+ as a toll indicator, and increasing the burden on directory, operator, and emergency services to accommodate 10-digit dialing and the loss of geographic identity.⁵

Thus, service provider portability was deemed critical to the initial development of competition, and technically feasible to implement without impairment of rating, routing,

⁵ First Report and Order, ¶184

and other related call delivery functions; while location portability was deemed to be technically much more complex and not sufficiently necessary to the initial development of competition to justify requiring its immediate implementation. (Kistner Direct, p. 5-6).

When the industry deliberated over the difficulties of developing a workable architecture for LNP implementation, a chief concern was ensuring the correct rating and routing of calls despite the change in terminating service provider. Consideration was given to the fact that new entrants would technically be able to serve a larger geographic area with a single switch, or wire center. The existing incumbent LEC architecture, on the other hand, was built around much smaller serving areas. Calls were rated and routed by the incumbent LEC to a specific wire center based on the NXX of the dialed number. If a number within that NXX were then transferred via LNP to another service provider, it was essential that other networks would still recognize the originally assigned rating location of that number (also called a “rate center designation”) so that calls that were previously local to that number would remain local, calls that were previously toll calls to that number would remain toll calls, and calls would be appropriately routed to the correct hand off point (point of interconnection, or POI) of the new service provider. This fundamental concern is reflected in the NANC’s LNP Architecture & Administrative Plan “LNP Assumptions” section, definition for LNP Portability Boundary:

If location portability is ordered by a state commission in the context of Phase I implementation of LRN, location portability is technically limited to rate center/rate district boundaries of the incumbent LEC *due to rating/routing concerns*. Additional boundary limitations, such as the wire center boundaries of the incumbent LEC may be required due to E911 or NPA serving restrictions and/or regulatory decisions.⁶ (emphasis added)

⁶ 47 CFR 52.26(a)(adopting NANC Working Group Report and appendices dated April 25, 1997), Appendix D, section 7.3.

(Kistner Direct, p. 7-8).

Following the successful implementation of LNP between wireline service providers, the industry continued work to develop standards and procedures to provide for wireless carriers' participation in LNP. The differences in serving area between porting carriers was even greater between wireline and wireless carriers than between incumbent LECs and new entrant carriers, and thus the concerns about maintaining correct rating and routing of calls was again a major focus. In addressing these concerns, the industry concluded, and the FCC agreed, that as long as calls to a ported telephone number will be rated to the same rate center and call routing will be the same whether the number is ported or the new service provider assigns the customer a new number, the port is permissible:

We conclude that porting from a wireline to a wireless carrier that does not have a point of interconnection or numbering resources in the same rate center as the ported number does not, in and of itself, constitute location portability, because the rating of calls to the ported number stays the same. As stated above, a wireless carrier porting-in a wireline number is required to maintain the number's original rate center designation following the port. As a result, calls to the ported number will continue to be rated in the same fashion as they were prior to the port. As to the routing of calls to ported numbers, it should be no different than if the wireless carrier had assigned the customer a new number rated to that rate center.⁷

The FCC has thus made it clear that there is **no change in location under its rules so long as calls to the ported number will continue to be rated according to the original rate center and calls are routed no differently than if the new service provider had assigned the customer a new number rated to that rate center**, even when the new service will be provided to a traveling wireless customer, much less an end user that will

⁷ *In the matter of Telephone Number Portability*, FCC CC Docket No. 95-116, ¶ 28 (Nov. 10, 2003)(herein Intermodal Order).

be served at a fixed wireline site as in the situations involved in this proceeding. (Kistner Direct, p. 8-9).

Within the FCC's number portability definitions, the words "location" and "physical location" are themselves undefined and ambiguous. As demonstrated, the FCC has interpreted "location" such that the assigned rate center is the pertinent location. This interpretation of "location" applies uniformly to all companies subject to the rules, both wireline and wireless. There are not separate sets of definitions.

As shown in Socket's Response, the number port requests submitted by Socket are valid requests for service provider portability, because the rate center will not change and routing will be the same whether the number is ported or a new number is assigned.

When looking at the laundry list of issues identified by the industry and enumerated by the FCC in the First Report and Order, it is obvious that these port requests do not trigger any of the concerns identified as associated with location portability. As a result of porting these numbers to Socket, there will be no need for substantial modifications to billing systems; no consumer confusion regarding charges for calls; no loss of the ability to use 7-digit dialing schemes; no need to restructure directory assistance and operator services; no need for additional coordination of number assignments for both customer and network identification; no need for network and switching modifications to handle a two-tiered numbering system; no need to develop and implement systems to replace 1+ as a toll identifier; and no impacts on E911 services.

Accordingly, given that the requested ports will not result in changes in call rating or routing, as a matter of law under applicable FCC rules and decisions, CenturyTel must port the numbers for Socket and the customers.

Additionally, as demonstrated in Socket's Response, CenturyTel is also required by the terms and conditions of the interconnection agreement to comply with industry practices and provide the requested ports. Contrary to CenturyTel's arguments, the agreement on its face imposes obligations beyond the minimum requirements of law, including provisions that require compliance with industry number porting practices. See Article XII, Local Number Portability, sections 3.2.1, 6.4.4, 6.4.5 (See Schedule MK-2). As Staff points out in its Response, the Commission is authorized to enforce interconnection agreements. *Southwestern Bell Tel. v. Connect Communications Corp.*, 225 F3d 942,946 (8th Cir. 2000).

Socket has previously responded to Respondents' Motion to Dismiss. In combination with that prior response, Socket's Response to Respondents' Motion for Summary Determination and Cross Motion for Summary Determination demonstrates that the Commission should deny Respondents' motions and make a summary determination in favor of Socket pursuant to 4 CSR 240-2.117.

WHEREFORE, Socket moves the Commission as expeditiously as possible to: 1) deny Respondents' Motion to Dismiss; 2) deny Respondents' Motion for Summary Determination; 3) grant Socket's Motion for Summary Determination; and 4) grant such other and further relief to Socket as the Commission deems just and proper in the premises.

Respectfully submitted,

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Certificate of Service

A true and correct copy of the foregoing was served upon the parties identified on the attached service list on this 22d day of June, 2007, by email or by placing same in the U.S. Mail, postage paid.

/s/ Carl J. Lumley

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