

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

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|------------------------------------------|---|----------------|
| Petition for Suspension of the Federal |) | |
| Communications Commission Requirement |) | |
| to Implement Wireline/Wireless Number |) | Case No. _____ |
| Portability, under 47 U.S.C. § 251(f)(2) |) | |

**PETITION FOR SUSPENSION
and
MOTION FOR EXPEDITED TREATMENT**

COMES NOW Spectra Communications Group, LLC d/b/a CenturyTel ("Spectra") and CenturyTel of Missouri, LLC ("CenturyTel") (hereinafter collectively referred to as "Petitioners"), pursuant to Section 251(f)(2) of the Telecommunications Act of 1996 ("the Act") (47 U.S.C. § 251(f)(2)), 4 CSR 240-2.080(3) and 4 CSR 240-2.080(16), and hereby respectfully petition the Missouri Public Service Commission (Commission) for a suspension of the Federal Communications Commission's ("FCC") November 10, 2003 *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking* ("Order") insofar as it requires Petitioners to implement wireline to wireless local number portability ("LNP") by November 24, 2003. In addition, Petitioners seek expedited treatment of their request for relief, as fully set forth herein. In support of this verified Petition and Request, Petitioners state to the Commission as follows:

SUMMARY

1. On November 10, 2003, the FCC issued its *Memorandum Opinion and Order* in CC Docket No. 95-116 regarding wireline-to-wireless number portability (also referred to as "intermodal portability"). The *Order* concludes that, as of November 24, 2003, local exchange carriers (LECs) providing service within the Nation's 100 largest Metropolitan Statistical Areas (MSAs) must port numbers to wireless carriers where the requesting wireless carrier's "coverage area" overlaps the geographic location of the

rate center in which the customer's wireline number is provisioned. As discussed more fully herein, *infra* ¶¶ 10-12, in its November 10, 2003 *Order* the FCC, for the first time, stated that its interpretation of its rules prohibiting location portability between wireline carriers does not apply to wireline to wireless LNP¹. While the FCC characterizes its *Order* as a "clarification," the rule adopted in the *Order* – which requires wireline carriers to port out numbers in circumstances where they were never required to port out numbers before – is an abrupt departure from the Commission's prior approach to this issue. As set forth in its Joint Petition for Stay Pending Judicial Review (filed jointly with the United States Telecom Association in CC Docket No. 95-116, CenturyTel, Inc. notes that, "Where, as here, 'an agency changes the rules of the game . . . more than a clarification has occurred.'" (Citing *Sprint Corp. v. FCC*, 315 F.3d 369, 374 (D.C. Cir. 2003)). Petitioners seek suspension and waiver of this decision because it is technically infeasible for them to comply with the *Order* by November 24, 2003.

2. The FCC's November 10, 2003 *Order* establishes a November 24, 2003 deadline for local exchange carriers operating in the largest 100 Metropolitan Statistical Areas (MSAs) to provide wireline-to-wireless number portability. Wireline providers outside the top 100 MSAs must provide the service by May 24, 2004. As noted by the FCC in its *Order*, "We recognize, however, that many wireline carriers outside the top 100 MSAs may require some additional time to prepare for implementation of intermodal portability." (*Order*, ¶ 29). Accordingly, the FCC recognized the burdens that this new intermodal portability regime would place on rural carriers. In addition, the

¹ "While the Commission decision in the Local Number Portability *Second Report and Order* limited the scope of wireline carriers' porting obligation with respect to the boundary for wireline-to-wireline porting, the Commission, as noted above, has never established limits with respect to wireline carriers' obligation to port to wireless carriers. The clarifications we make in this Order interpret wireline carriers' existing

FCC's *Order* leaves unclear a number of the obligations and responsibilities related to wireline-to-wireless number portability. Given the short amount of time that Petitioners would have to deploy LNP under these deadlines and the lack of FCC guidance with respect to important deployment issues, Petitioners believe that an expedited suspension order is necessary to prevent Petitioners from the possibility of being in violation of FCC rules and requirements.

3. In addition to the numerous technical issues that make deployment of LNP substantially more difficult for rural telephone companies, there are important unresolved intermodal porting issues (porting numbers between wireline carriers and wireless carriers) associated with the deployment of number portability as noted in the FCC's *Order*. Absent further guidance from the FCC on how to resolve these issues, it is not technically feasible for Petitioners to deploy LNP by the November 24, 2003 deadline.

PETITION FOR SUSPENSION

4. Spectra is a Delaware Limited Liability Company authorized to do business in Missouri as evidenced by the certificate of authority issued by the Missouri Secretary of State which was filed in Case No. TM-2000-182 and are incorporated herein by reference pursuant to Commission Rule 4 CSR 240-2.060(1)(G). Spectra operates in Missouri using the fictitious name of "CenturyTel," pursuant to the registration of fictitious name filed in Case No. TO-2001-437 and incorporated herein by reference. Spectra's principle place of business is 1151 CenturyTel Drive, Wentzville, Missouri 63885. Spectra provides basic local telecommunications services in 107 rural

obligations to port numbers to wireless carriers." *Order*, ¶26, p. 12 (emphasis added).

exchanges throughout Missouri. Spectra's service area includes parts of Clinton, Lafayette, Ray and Clay Counties in Missouri, which are a part of the Kansas City, MO-KS MSA. Spectra currently provides telecommunications service to customers located in the state of Missouri totaling approximately 130,988 access lines. Spectra has no pending actions or final, unsatisfied judgments or decisions against it which involve customer service or rates, which action, judgment or decision has occurred within the last three years from the date of this Petition. Spectra has no annual report or assessment fees overdue.

5. CenturyTel is a Louisiana limited liability corporation that is duly authorized to do business in the state of Missouri. Copies of CenturyTel's Certificate of Authority to transact business in Missouri from the Missouri Secretary of State were filed in Case No. TM-2002-232, and are incorporated herein by reference pursuant to Commission Rule 4 CSR 240-2.060(1)(G). CenturyTel's principle place of business is 1151 CenturyTel Drive, Wentzville, Missouri 63885. CenturyTel provides basic local telecommunications services in 96 rural exchanges throughout Missouri. CenturyTel's service area includes parts of St. Charles, Franklin, Lincoln and Warren Counties in Missouri, which are a part of the St. Louis, MO-IL MSA. CenturyTel currently provides telecommunications service to customers located in the state of Missouri totaling approximately 347,468 access lines. CenturyTel has no pending actions or final, unsatisfied judgments or decisions against it which involve customer service or rates, which action, judgment or decision has occurred within the last three years from the date of this Petition. CenturyTel has no annual report or assessment fees overdue.

6. Section 251(f)(2) of the Act allows a rural local exchange carrier (LEC) with fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide to petition a state commission for a suspension or modification of the application of a requirement or requirements found in Subsections (b) and (c) of Section 251.² Subsection (b)(2) of Section 251 contains the duty to provide number portability in accordance with FCC requirements.³

7. The number of subscriber lines served by CenturyTel nationally is under two percent of the Nation's total number of subscriber lines. Therefore, Petitioners are eligible to petition the Missouri Commission.

8. Section 251(b)(2) of the Telecommunications Act of 1996 (the Act) requires all local exchange carriers (LECs) to provide "number portability." Number portability is defined as "the duty to provide, to the extent technically feasible, number portability in

² 47 U.S.C. §251(f)(2).

Section 251 (f) Exemptions, suspensions, and modifications

2) Suspensions 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 services generally;

(ii) to avoid imposing a requirement that is unduly economically burdensome; or

(iii) to avoid imposing a requirement that is technically infeasible; and

(B) is consistent with the public interest, convenience, and necessity.

³ 47 U.S.C. §251(b)(2).

accordance with requirements prescribed by the Commission.” It is important to note that the porting of a number also involves the transport of the associated call. Thus, when a calling party dials a ported number, a data base is queried and the originating switch is advised that the number has been ported to another carrier. The associated call is then transported or routed to that other carrier for termination to the called party. In a series of decisions and rules, the FCC has established guidelines for the porting of numbers by wireline carriers. Of significance is the fact that the FCC’s rules limit a wireline carrier’s obligation to port numbers within the wireline carrier’s rate center.⁴ In other words, wireline carriers are not required to port numbers beyond their respective rate centers or the area within which they provide local exchange calling. The porting of numbers beyond a wireline carrier’s rate center has been referred to as “location portability.”

9. Also of significance is the fact that the FCC’s rules do not require rural carriers to implement local number portability (LNP) until they had received a bonafide request (BFR) by a requesting carrier. Once a rural carrier receives a BFR to implement LNP, it has six months within which to make the necessary investments, install equipment, and make administrative changes to become LNP capable.

10. The FCC has also determined that wireless carriers should provide LNP. In a series of decisions, the FCC has extended the deadline for wireless carriers located in the 100 largest MSAs (Metropolitan Statistical Area) to be LNP capable to November 24, 2003. As wireless and wireline carriers began to discuss the porting of numbers between their respective networks (*i.e.*, “intermodal” porting) they identified distinct differences of opinion regarding, among other things, the extent of wireline carriers’

⁴ A “rate center” is a specific geographical location within an exchange area from which mileage measurements are determined for the application of rates between exchange areas.

obligation to provide LNP. Specifically, wireline carriers objected to the porting of numbers (and associated calls) to a wireless carrier who is not directly connected with the wireline carrier and who does not have numbering resources (i.e., NPA, NXXs) within the same rate center as the wireline carrier. This, in the opinion of the wireline carriers, constituted location portability which FCC rules did not require. This issue was specifically brought to the FCC's attention in a Petition for Declaratory Ruling filed January 13, 2003, by the Cellular Telecommunications Industry Association (CTIA). Comments were received from both the wireless and wireline industry. When the FCC failed to act on CTIA's Petition, CTIA filed a Second Petition for Declaratory Ruling on May 13, 2003.

11. On November 10, 2003, in response to the CTIA Petitions for Declaratory Ruling, the FCC, for the first time, stated that its rules regarding wireline to wireline number portability were not applicable to intermodal porting. As a result, as of November 24, 2003, a mere fourteen days later, LECs must port numbers to a requesting wireless carrier where the wireless carrier's coverage area overlaps the geographic location of the rate center to which the number is assigned, even though the wireless carrier's point of presence is in another rate center and has no direct interconnection with the wireline carrier. The FCC further found that wireless carriers need not enter into Section 251 Interconnection Agreements with wireline carriers solely for the purpose of porting numbers. In other words, the FCC has for the first time announced that its rules prohibiting location portability between wireline carriers do not apply to wireline to wireless LNP.

12. As of November 24, 2003, wireline carriers located within the 100 largest MSAs are obliged to port numbers to wireless carriers who do not have a direct interconnection with the wireline carrier and who do not have numbering resources (i.e.,

NPA NXXs) assigned to the rate center served by the wireline carrier.⁵ While the FCC recognized that there were legitimate issues with respect to how numbers ported from a wireline carrier to a wireless carrier will be routed where there is no direct interconnection, it declined to address these issues at this time. The FCC also recognized that there may be other regulatory requirements that prevent wireline carriers from porting wireless numbers when the rate center associated with the number and the customer's physical location do not match. However, the FCC declined to resolve these issues and requested further comment on them. Finally, the FCC even acknowledged that wireline carriers within the 100 largest MSAs who are required to port numbers to wireless carriers on and after November 24, 2003, may not be able to meet this deadline, but instead of addressing this real dilemma, simply invited them to file petitions for waiver.

13. Petitioners seek suspension and modification of the Act's porting requirements, as clarified by the FCC in its November 10, 2003 *Order*, because it is simply not technically feasible for them to comply with these new requirements in fourteen days. Spectra is not fully LNP capable.⁶ To become LNP capable will require investments in central office switching software upgrades. It will be necessary to secure the required software upgrades from its switch vendor, and such upgrades will have to be shipped, installed, and tested.

14. In addition, once a number has been ported all local calls must be routed to a database to determine if the number(s) called has been ported. To secure the necessary SS7 links, where not currently available, additional expenditures and additional time will be required. Petitioners will have to contract with a third party

⁵ The Commission determined that for wireline carriers operating in areas outside of the 100 largest MSAs that the requirement that these carriers port numbers to wireless carriers that do not have a point of interconnection or numbering resources in the rate center where the customers wireless number is provisioned is waived until May 24, 2003.

⁶ While CenturyTel has installed the switching components, it will still be subject to the other technical infirmities associated with intermodal porting discussed herein.

vendor to provide this data base query. Petitioners will also have to implement changes in their office administration, including service order processing, in order to process customer requests for porting. Finally, to the extent that Petitioners are required to port numbers (and transport associated calls) beyond their rate center(s) to other rate centers where wireless carriers have established their points of presence, this may entail facilities that Petitioners do not currently have in place. Petitioners may need to establish facilities between their exchanges and the wireless carriers point of presence or arrange with an intermediate carrier to transport the call. To the extent these facilities and/or arrangements do not currently exist, additional time will obviously be required. To date, no customer of Petitioners has requested that their local telephone number be ported to a wireless carrier. In addition, while Petitioners have previously received portability "requests" from wireless carriers which they did not consider bona fide requests, no wireless carrier has identified any current subscriber of petitioners desiring LNP.

15. Petitioners believe that important contractual and compensation issues associated with porting outside the rate center would need to be resolved to accomplish intermodal porting. At present, the FCC has not provided guidance on any of these important issues, and as a result, Petitioners have no information about how to comply with the November 24, 2003 deadline for implementing intermodal number portability.

16. Although the FCC's *Order* recognizes the problems associated with many of these issues, such as the impact of designating different routing and rating points, the *Order* does not resolve them. For example, the *Order* clarifies that ported numbers must remain rated to their original rate center. However, the *Order* also notes that the routing will change when a number is ported. The *Order* observed that several wireline carriers have expressed concern about the transport costs associated with routing calls to ported numbers. (§39) The *Order* also cites the arguments filed by NECA and NTCA that when wireless carriers establish a point of interconnection outside of a rural LEC's

serving area: (1) a disproportionate burden is placed on rural LECs to transport originating calls to the interconnection points; and (2) requiring wireline carriers to port telephone numbers to out-of-service area points of interconnection could create an even bigger burden. Nevertheless, the *Order* finds that these concerns “are outside the scope of this order.” (§39) The *Order* states that its ruling is “limited to ported numbers that remain rated in their original rate centers.”

17. Given the fact that the FCC issued its decision on November 10, 2003, substantially altering the obligations of wireline carriers with respect to intermodal LNP; the fact that Petitioners have either no present ability to provide LNP or no present ability to provide for the porting of numbers and associated calls to the wireless carriers’ facilities, or both; and the fact that no customer has, to date, requested that their number be ported, Petitioners believe it is appropriate for the Commission to issue an order suspending the FCC’s requirement that they implement local number portability on November 24, 2003. The suspension sought by Petitioners is in the public interest because it should allow Petitioners adequate time to address the wireline/wireless LNP technical issues discussed herein.

MOTION FOR EXPEDITED TREATMENT

18. Pursuant to 4 CSR 240-2.080(16), Petitioners seek a Commission order on or before November 21, 2003, as this is the last business day before the November 24, 2003 deadline. The FCC’s *Order* imposes requirements that appear to be substantially different than the prior LNP rules, and it is physically impossible for Petitioners to comply with the FCC’s *Order* within the two-week time period ordered by FCC. Therefore, granting the Petition would prevent Petitioners from being in violation of FCC *Orders* and avoid increased costs for rural customers. Granting the Petitioners’ request will allow Petitioners more time to implement the technical requirements for LNP and provide more time for the FCC to clarify the LNP requirements for rural carriers. There will be no negative effect on Petitioners’ customers or the general public. To

Petitioners' knowledge, none of Petitioners' customers have requested porting. This pleading was filed as soon as it could have been after the FCC's November 10, 2003 decision.

CONCLUSION

19. The *Order's* requirement to provide number portability by November 24, 2003 is technically infeasible for Petitioners at this time. In addition, the *Order* lacks federal guidance on the intermodal porting issues discussed above. Therefore, Petitioners respectfully request that the Missouri Commission grant Petitioners a temporary suspension of the *Order's* intermodal porting obligations until May 24, 2004, when the FCC envisions other rural carriers outside the 100 largest MSAs implementing number portability. This suspension, if granted, will ensure that Petitioners' rural customers are not burdened with unnecessary expenditures to meet intermodal porting requirements that are uncertain at the present time.

Respectfully submitted,

/s/ Larry W. Dority

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, e-mailed or hand-delivered, on this 19th day of November, 2003, to the following parties:

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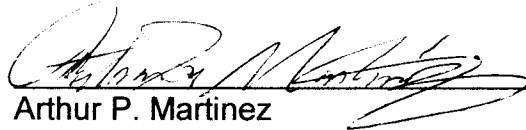
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/s/ Larry W. Dority

Larry W. Dority

VERIFICATION

I, Arthur P. Martinez, Director-Government Relations for CenturyTel, hereby verify and affirm that I have read the foregoing PETITION FOR SUSPENSION AND MOTION FOR EXPEDITED TREATMENT and that the statements contained herein are true and correct to the best of my information and belief.


Arthur P. Martinez

STATE OF MISSOURI

) ss

COUNTY OF COLE

Subscribed and sworn to me, a Notary Public, on this 19th day of
November, 2003.


Notary Public

My Commission expires May 8, 2005.

