

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer  
Marshall Johnson  
Ken Nickolai  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Petition by the Minnesota Independent Coalition for Suspension or Modification of Local Number Portability Obligations Pursuant to 47 U.S.C. § 251(f)(2)

ISSUE DATE: July 8, 2004

DOCKET NO. P-et al/M-04-707

ORDER GRANTING SUSPENSION,  
SETTING INTERIM RATES, AND SETTING  
90-DAY DEADLINE FOR NEGOTIATIONS

**PROCEDURAL HISTORY**

On May 10, 2004, the Minnesota Independent Coalition (MIC)<sup>1</sup> filed a petition pursuant to 47 U.S.C. § 251(f)(2) and Minn. Rules part 7811.2100 requesting the suspension or modification of its members' obligations under 47 U.S.C. § 251(b)(2) to provide local number portability (LNP) to requesting Commercial Mobile Radio Service (CMRS) providers.

On May 19, 2004, MIC filed a request for a temporary suspension of its members' number portability obligations until the matter came before the Commission.

On May 24, 2004, the Commission issued its ORDER GRANTING TEMPORARY SUSPENSION, which granted MIC's member companies a temporary suspension of their federal local number portability obligations until the Commission took further action on the matter.

Comments were filed by Rural Cellular Corporation, Midwest Wireless Holdings Inc. and Western Wireless Corporation ( the Wireless Carriers) on May 17, 2004, by the Department of Commerce (DOC) on May 28, 2004, by Qwest Corporation (Qwest) on June 1, 2004, and by Sprint Corporation, on behalf of its Wireless Division, Sprint Spectrum, L.P., d/b/a Sprint PCS (Sprint) on June 1, 2004.

Reply comments were filed by MIC on June 8, 2004.

Petitions for Intervention were timely filed by Sprint, Rural Cellular Corporation, Midwest Wireless Communications L.L.C., Western Wireless Corporation, and by Local Access Network, LLC, C-I Communications, Inc., and Kasson-Mantorville Telephone Company.

---

<sup>1</sup> The over sixty members are listed on Exhibit 1, attached hereto. Note that Winnebago Cooperative Telephone Association, Hills Telephone Company, Sioux Valley Telephone Company, and Interstate Telecommunications Cooperative are not petitioners in this docket.

The matter came before the Commission on June 24, 2004.

## FINDINGS AND CONCLUSIONS

### **I. Background**

The Federal Communications Commission (FCC) issued an Order November 10, 2003<sup>2</sup> that required local exchange carriers (LECs), upon receiving a bona fide request from a CMRS provider, to make their switches capable of porting a subscriber's local telephone number to a requesting CMRS provider.

The FCC also ordered all carriers outside the top 100 Metropolitan Statistical Areas (MSA's) to implement wireless LNP (WLNP) by May 24, 2004, for any bona fide request received on or prior to November 24, 2003. For bona fide requests received after November 24, 2003, the LECs had six months following the request to implement wireless LNP.

### **II. MIC's Petition**

#### **A. Request for Temporary Suspension of LNP Obligations**

MIC requested that its member companies (MIC Companies or the Companies) be granted a temporary suspension, until July 30, 2004, of obligations to provide wireless local number portability to CMRS providers who have submitted a bona fide request for wireless LNP, or any additional CMRS provider that may subsequently submit a bona fide request for LNP.

MIC argued that the suspension was needed to complete the necessary technical and operational modifications to network connections between the Companies and Qwest for wireless LNP. Further, MIC stated it needed the suspension in order to conclude negotiations with Qwest over the terms and conditions, including rates, for the services and facilities to support wireless LNP.

The MIC Companies stated that they could temporarily resolve the issue of the Companies' duty to route calls to already ported numbers by arranging for carriers other than Qwest to route and terminate the traffic.

#### **B. Other Requests**

MIC stated that for the majority of the MIC Companies, there are no direct connections between CMRS providers and the Companies. Rather, CMRS providers in Minnesota have interconnected their wireless networks with tandem switches owned and operated by Qwest, and route their traffic to the Companies via these connections. A substantial majority of the MIC member companies do not have the technical ability to route their traffic to the CMRS carriers via Qwest access tandems, because Qwest has configured the facilities as one-way terminating trunks. This configuration permits the CMRS providers to deliver their traffic to the Companies, but the Companies are unable to similarly route traffic bound for CMRS providers via these trunks.

---

<sup>2</sup> *In re Telephone Number Portability*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, FCC 03-284 (2003) (the Intermodal Number Portability Order).

MIC stated that it contacted Qwest to request that Qwest accept traffic from the Companies for ported numbers via existing Company-Qwest trunk groups at Qwest access tandems in Minnesota. This would require both the Companies and Qwest to reconfigure the trunks to accept wireline to wireless ported traffic.

MIC indicated that Qwest was receptive to developing routing for CMRS provider-bound traffic as requested by the Companies, but that Qwest would not make any operational changes until the Companies and Qwest had signed agreements identifying the terms of service.

MIC and Qwest have been unable to reach agreement on the rates and the scope of the agreement. MIC argued that the scope of Qwest's proposed agreement was too broad. Further, MIC objected to the rate Qwest proposed.

MIC argued that the scope of the agreement should be limited to MIC's request for transit services for wireless LNP routing and not cover transit services generally, as Qwest proposed. The MIC Companies also argued that the pricing for wireless LNP services should reflect forward looking costs or total element long-run incremental cost (TELRIC) pricing.

### **III. Other Parties' Positions**

#### **A. Qwest**

Qwest stated that it had no objection to MIC's request for an extension of the FCC deadline. Further, Qwest did not object to a temporary short term agreement that would only address CMRS transit traffic. However, Qwest disagreed with the MIC Companies' position that Qwest must provide the MIC Companies with transit service and must do so at TELRIC rates.

Qwest stated that it had offered an interim 90-day arrangement for wireless LNP transit service and that it would be able to implement this interim service for all the trunks at issue in this case within three weeks of a signed agreement.

Qwest also stated that it proposed a more long term agreement that would cover all transit traffic that the MIC Companies send through Qwest's tandem. Qwest argued that it currently receives no compensation for this transit traffic.

#### **B. The Wireless Carriers**

The Wireless Carriers opposed a delay of the incumbent local exchange carriers' (ILEC's) obligations to implement wireless LNP. They argued that the ILECs had ample time to make the necessary network modifications to enable them to meet the deadlines established.

The Wireless Carriers recommended that:

- The Commission grant the MIC Companies' request to order Qwest to provide a transit function for the delivery of wireless LNP local traffic at TELRIC rates.
- Qwest and MIC immediately implement the transit of any local traffic that is bound to a number ported from a MIC Company to a Wireless Carrier under interim terms.

- Qwest and the MIC Companies continue to negotiate terms for the transit of any local traffic that is bound from the MIC Companies to the Wireless Carriers.
- The Commission clarify that a suspension of the MIC Companies' WLNP obligations does not suspend the MIC Companies' obligation to properly route calls to numbers that have been ported from one wireless carrier to another.

### **C. Sprint**

Sprint did not oppose MIC's request for a brief delay, until July 30, 2004, of number porting obligations. However, Sprint requested that the Commission direct the MIC Companies and Qwest to make the necessary changes to allow customers to make calls to those ported numbers no later than July 30, 2004.

Sprint also recommended that any rate issues between MIC and Qwest be considered separately from porting obligations.

### **D. DOC**

The DOC recommended that the Commission:

- Grant the temporary stay requested by MIC of its member Companies' WLNP obligations until July 30, 2004, as permitted under Minn. Rules part 7811.2100, subp. 9.
- Require Qwest and MIC to implement, at interim rates, any transit functions necessary for MIC Companies to provide wireless LNP. If the companies cannot agree on an appropriate rate, either party can ask the Commission to set a permanent rate.
- Clarify that any suspension applies to the duty to provide wireless LNP, not to the duty to also route calls to ported numbers.

## **IV. Agreement on Interim Rates and Further Negotiations**

At hearing Qwest and MIC agreed on the following interim rates:

- \$10.00 per month per company for rural companies; and
- \$300.00 per month per company for metro companies.

Qwest and MIC agreed that there would be no true-up of these interim rates.

Further, Qwest and MIC agreed that if they could not reach a permanent agreement after 90 days, the matter should be sent to the Office of Administrative Hearings for contested case proceedings.

## **V. Commission Action**

The Commission will grant MIC's request for a temporary suspension of wireless LNP obligations, but only until July 30, 2004. This will allow sufficient time for the completion of the necessary technical and operational modifications to network connections between the Companies and Qwest.

The Commission will order Qwest to reconfigure its tandems to accept wireline to wireless traffic from the MIC members, as agreed to by Qwest. Further, the Commission will order interim rates of \$10 per month per rural company and \$300 per month per metro company, as agreed to by Qwest and MIC.

The Commission recognizes that the parties have been engaged in negotiations to reach agreement on the terms and conditions for the services and facilities to support wireless LNP and that the parties have requested 90 days to continue their negotiations. The Commission finds it reasonable to allow the parties 90 days from the date of this Order to reach an agreement. However, if the parties cannot reach agreement in that time, the matter will be sent to the Office of Administrative Hearings for contested case proceedings.

The issue to be sent for contested case proceedings, if the parties cannot reach agreement, will be limited to the matter of the appropriate pricing for wireless LNP traffic. To broaden the scope to include other transit services, other than wireless LNP services, would unnecessarily complicate, expand, and delay the proceedings. The Commission finds that, if it becomes necessary for the Commission to determine pricing for wireless LNP, the necessary facts can best be developed in a formal evidentiary proceeding.

The Commission agrees with the Wireless Companies and the DOC that the obligation to route calls to ported numbers is independent of the obligation to provide number portability. Granting the MIC Companies a suspension of the Companies' Wireless LNP obligation does not suspend the MIC Companies' obligation to properly route calls that have been ported from one wireless carrier to another. The Commission will clarify this by ordering that the MIC Companies properly route calls that have been ported from one wireless carrier to another.

There being no objections to the Petitions to Intervene the following Petitions are granted: Sprint Corporation on behalf of its Wireless Division, Sprint Spectrum, L.P., d/b/a Sprint PCS; Rural Cellular Corporation; Midwest Wireless Communications LLC; Western Wireless Corporation; Local Access Network, LLC; C-I Communications, Inc.; and Kasson-Mantorville Telephone Company.

### **ORDER**

1. MIC's request for suspension of its member companies' federal number portability obligations is granted only until July 30, 2004.
2. Qwest shall reconfigure its tandems to accept wireline to wireless traffic from the MIC members at the following interim rates:
  - \$10.00 per month per rural company,
  - \$300.00 per month per metro company.
3. Within 90 days of the date of this Order the parties shall make a filing with the Executive Secretary indicating whether or not they have reached agreement. If no agreement is reached, the Executive Secretary will issue a Notice and Order for Hearing referring the matter to the Office of Administrative Hearings for contested case proceedings. The matter to be sent for contested case proceedings shall be limited to the issue of the appropriate pricing for wireless LNP traffic.

4. The MIC Companies are required to properly route calls to numbers that have been ported from one wireless carrier to another.
5. The Commission grants the petitions to intervene of: Sprint Corporation on behalf of its Wireless Division, Sprint Spectrum, L.P., d/b/a Sprint PCS; Rural Cellular Corporation; Midwest Wireless Communications LLC; Western Wireless Corporation; Local Access Network, LLC; C-I Communications, Inc.; and Kasson-Mantorville Telephone Company.
6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 297-4596 (voice), or 1-800-627-3529 (MN relay service).