

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition)	DOCKET NO. UT-031915
Requesting Temporary Suspension)	
of Implementation of Number)	ORDER NO. 01
Portability –)	
)	
CENTURYTEL OF)	
WASHINGTON, INC.)	
.....)	ORDER DENYING SUSPENSION

BACKGROUND

- 1 On November 21, 2003, CenturyTel of Washington, Inc., (CenturyTel) requested a 90-day suspension of its obligation, effective November 24, 2003, to provide local number portability in King, Pierce, and Clark counties. The petition was filed pursuant to Sec. 251(f)(2) of the Telecommunications Act of 1996, which allows states commissions to suspend or modify number portability requirements for small local exchange companies.

- 2 The Federal Communications Commission has required local number portability (LNP) for local exchange companies operating in areas where there is competition. The FCC has generally defined this competitive area to be the 100 largest metropolitan areas. Congress established a duty on all LECs, whether incumbent or competitive, to provide number portability to the extent technically feasible. *47 U.S.C. 251(b)(2)*.

- 3 Sec. 251(f)(2) provides for a suspension or modification if such action is necessary to avoid a significant adverse economic impact on users of telecommunications services generally, to avoid imposing a requirement that is unduly economically burdensome, or to avoid imposing a requirement that is technically infeasible. Even if these conditions exist, the state commission must determine that the suspension or modification is consistent with the public interest, convenience, and necessity.

- 4 FCC *Memorandum Opinion and Order* in CC Docket No. 95-116, issued on November 10, 2003, stated that wireline local exchange companies providing service within counties containing the 100 largest Metropolitan Statistical Areas should provide number portability to wireless carriers by November 24, 2003. The top 100 metropolitan areas in Washington include Snohomish, King, Pierce, and Clark counties. Outside of these areas, companies are required to offer local number portability on May 24, 2004.
- 5 CenturyTel provides service in fifteen wire centers inside the Seattle-Tacoma and Portland-Vancouver metropolitan areas (Ames Lake, Arletta, Ashford, Carnation, Falls City, Gig Harbor, Lakebay/Fox Island, North Bend, North Vashon, Orting, Packwood, Snoqualmie Pass, South Prairie, Vashon, and Yacolt).
- 6 CenturyTel received requests for number portability from wireless carriers in May 2003.
- 7 In Docket UT-031535, filed on September 24, 2003, CenturyTel requested an indefinite suspension of its obligation to provide local number portability in all areas of the state where it provides local exchange service. CenturyTel withdrew this petition on October 28, 2003, after Staff recommended that the WUTC deny the request for suspension.
- 8 CenturyTel contends that their circumstances qualify for a temporary suspension of the number portability requirement. They argue that an FCC ruling on November 10, 2003, has not given them sufficient time to meet the November 24, 2003, deadline for providing local number portability. CenturyTel asserts that the following steps are required before LNP can be implemented in these wire centers: activating and testing software, possible reinforcement of data links, possible reinforcement of interoffice transport and increased staffing to reinforce the service order process.

- 9 CenturyTel also claims that the FCC's order ignores and contradicts provisions of the Telecommunications of Act of 1996 that limit the number portability obligation. According to CenturyTel, the FCC made a sudden and abrupt reversal of its interpretation of the law, which was both erroneous and issued without warning or appropriate notice or legal process. According to CenturyTel, the FCC "compounded its error" by "giving a mere 14 days ... to comply with its newfound interpretation of LNP requirements." *Petition at para. 8.* CenturyTel asserts that this is precisely the "type of technical infeasibility" envisioned when Congress included Section 252(f)(2) in the law.
- 10 CenturyTel asks that the WUTC extend the deadline to provide LNP for 90 days. CenturyTel does not, within this petition, contest its eventual obligation to provide LNP in the fifteen wire centers involved but requests delay to put the required processes in place.
- 11 The Commission Staff believes that the CenturyTel petition does not provide an adequate reason to suspend its obligations to comply with the FCC's number portability requirements. Staff disputes CenturyTel's claims that its obligation to implement LNP did not exist until November 10 and, by extension, that the company had only 14 days to implement the requirement. Staff's view is that CenturyTel was obligated to implement number portability long before November 10. Under the federal rules adopted in 1996 (47 CFR 52.23), CenturyTel was obligated to implement LNP within six months after it received a *bona fide* request from another carrier. It received such a request six months before the November 24 implementation date. Staff notes that CenturyTel itself filed a suspension request in September, only to withdraw it in October. Staff believes that CenturyTel had sufficient time to implement its LNP obligations by November 24.

12 Staff also urged the Commission not to grant a suspension based on CenturyTel's claims that the FCC violated the law in its November 10 order. CenturyTel has sought review of this order in federal court, and Staff believes it would be inappropriate as well as pointless for the WUTC to engage in a legal review of its fellow regulator's decision.

13 After examination of this request at its December 18, 2003, open meeting and giving consideration to all relevant matters, the Commission finds that the recommendation of Staff to deny should be adopted.

FINDINGS AND CONCLUSIONS

14 1) CenturyTel of Washington, Inc., is obligated to provide number portability upon receipt of a *bona fide* request unless this obligation is suspended or modified by the state commission. 47 U.S.C. 251(b)(2), 47 C.F.R. 52.23.

15 2) The Commission has authority to act upon a petition for suspension or modification of the number portability requirement. 47 U.S.C. 251(f)(2).

16 3) CenturyTel has not demonstrated that implementation of local number portability by November 24, 2003, within the limited geographic area required by the FCC was technically infeasible. Nor has it demonstrated that a suspension of its number portability obligations is in the public interest.

ORDER

THE COMMISSION ORDERS:

- 1) The petition is denied.
- 2) The Commission retains jurisdiction over this matter to take such future actions as may be appropriate.

DATED at Olympia, Washington, and effective this 18th day of December, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner