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December 18, 2003

Ms. Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
Olympia, WA 98504-7250

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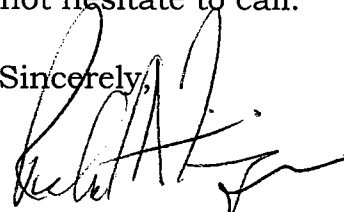
Re: Petition of Asotin Telephone Company for Temporary Suspension
of Wireline to Wireless Number Portability Obligations

Dear Ms. Washburn:

Attached are an original and nineteen copies of the above referenced
document.

If you have any questions, please do not hesitate to call.

Sincerely,



RICHARD A. FINNIGAN

RAF/pl
Enclosures

cc: Gail Long
Linda Lowrance

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STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

**BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION**

Petition for Temporary Suspension of
Wireline to Wireless Number Portability
Obligations Pursuant to Section 251(f)(2) of
the Communications Act of 1934, As
Amended

UT-_____

PETITION OF ASOTIN TELEPHONE
COMPANY FOR TEMPORARY SUSPENSION
OF WIRELINE TO WIRELESS NUMBER
PORTABILITY OBLIGATIONS

COMES NOW, Asotin Telephone Company ("Company"), by and through its attorney of record, the Law Office of Richard A. Finnigan, by Richard A. Finnigan and B. Seth Bailey, attorneys at law, and file this Petition for Temporary Suspension of Wireline to Wireless Number Portability Obligations (the "Petition") with the Washington Utilities and Transportation Commission (the "Commission").

PARTIES

1. The Company qualifies as a "rural telephone company" as the term is defined in 47 U.S.C. § 153(37). The business office address for the Company is 126 Second Street, Asotin, Washington, 99402.

PETITION FOR SUSPENSION OF WIRELINE
TO WIRELESS NUMBER PORTABILITY
OBLIGATIONS - 1

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JURISDICTION

2. The Commission has jurisdiction to decide this Petition under 47 C.F.R. § 52.20, *et seq.*, 47 U.S.C. § 251(f)(2) and the orders issued by the Federal Communications Commission (“FCC”) concerning number portability obligations, identified below.

PETITION FOR SUSPENSION

3. Pursuant to Section 251(f)(2) of the Communications Act of 1934, as amended (the “Act”),¹ the Company hereby respectfully requests that the Commission temporarily suspend the Company’s individual obligations to provide “number portability,” as that term is defined by applicable law,² to requesting Commercial Mobile Radio Service (“CMRS”) providers. As demonstrated herein, the statutory criteria for the requested suspension are met with respect to this request. Grant of this Petition will permit the Commission to ensure that the public interest for wireline-to-wireless portability³ is properly served in this instance.

4. Implementing number portability is technically complicated, and requires ensuring that the proper arrangements are in place for handling end user traffic. Porting numbers to wireless providers increases this complexity.

¹ See 47 U.S.C. § 251(f)(2).

² The Communications Act of 1934, as amended (the “Act”) defines number portability as “the ability of users of telecommunication 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.” 47 U.S.C. § 153 (30) (emphasis added). See also 47 C.F.R. § 52.21(p) (FCC quoting the Act’s “service provider portability” definition).

³ The terms “wireline-to-wireless portability” and “intermodal portability” are used interchangeably in this Petition.

1 **I. Summary**

2 5. This Petition requests that the Commission exercise its authority to address the effect
3 of the requests for inter-modal porting on the Company's customers. Such action is necessary to
4 ensure that the Company and its customers are not forced to bear unnecessary and potentially
5 wasted costs.

6 6. The FCC has recently clarified that for areas outside of the top one hundred MSAs,
7 the date to be concerned with is May 24, 2004, rather than November 24, 2003.⁴ The Company's
8 operating areas are outside of the top one hundred MSAs. The Company's switch is not currently
9 LNP capable and will require either a very expensive upgrade or complete replacement in order to
10 accommodate number portability. The technical difficulties and time it takes to develop a switch
11 replacement plan and implement such plan make a May 24, 2004 LNP implementation date
12 impossible to meet. The Company is currently in the process of negotiating with switch vendors
13 concerning the purchase of a switch. As the Commission knows, Asotin Telephone Company is
14 part of TDS Telecom. TDS Telecom has a number of companies throughout the nation that need to
15 have full switch replacements in order to accommodate number portability. As a result, TDS
16 Telecom is negotiating the purchase of switches for all of its affected companies. This exercise of
17 some economy of scale should allow the final price to be lower than if only one switch for the
18 Asotin Telephone Company was purchased.

19 7. Accordingly, for the reasons provided herein, the Company respectfully requests that
20 the Commission grant it the temporary suspension described below of any obligation to provide
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25 ⁴ *In the Matter of Telephone Number Portability*, CC Docket No. 95-116, FCC 03-284, (rel. November 10, 2003).

1 wireline-to-wireless number portability. The Company believes that at least a temporary waiver to
2 allow further development of a switch replacement schedule and further consideration of the public
3 policy interests is in the interest of the Company's customers. The Company believes that the
4 Commission's exercise of its explicit Section 251(f)(2) authority⁵ will provide sufficient time to
5 address and resolve the significant issues surrounding the Company's obligations in a reasonable
6 and thoughtful manner while avoiding potentially detrimental consequences to the Company's end
7 users. Accordingly, a prompt grant of this aspect of the Petition will serve the public interest.
8

9
10 **II. Background**

11 **A. The Company is Eligible to Seek this Relief.**

12 8. The Company is a rural telephone company as defined by the Act.⁶ Additionally, the
13 Company satisfies the criteria set forth in Section 251(f)(2), which provides in pertinent part, that
14 LECs "with fewer than two percent of the Nation's subscriber lines installed in the aggregate
15 nationwide may petition a state commission for a suspension or modification"⁷ of the number
16 portability requirements.⁸ As of December 2002, approximately 188 million local telephone lines
17 were in service nationwide.⁹ The Company serves fewer than 1,500 lines. Obviously, the Company
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21 ⁵ Pending action on the specific request for modification or suspension, the Commission "may suspend
22 enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or
23 carriers." 47 U.S.C. § 251(f)(2).

24 ⁶ 47 U.S.C. § 153(37).

25 ⁷ 47 U.S.C. § 251(f)(2).

26 ⁸ Section 251(b)(2) states that "The duty to provide, to the extent technically feasible, number portability in
accordance with requirements prescribed by the Commission." 47 U.S.C. § 251(b)(2).

⁹ See "Federal Communications Commission Releases Study on Telephone Trends," FCC News Release (rel.
Aug. 7, 2003).

1 serves far less than the 2% threshold of 3.76 million access lines.

2
3 **B. The Company's Service Areas and Operations Support the Requested**
4 **Relief.**

5 9. As the Commission is aware, the Company provides local exchange and exchange
6 access services within its individual respective service areas. The Company serves the following
7 rate centers: Asotin and Anatone. The Company has a host switch in Asotin and a remote in
8 Anatone. In addition, the same host switch serves the Flora-Troy exchange in Oregon. The
9 Company has received a request for LNP from Sprint PCS. The request is only for the Anatone
10 exchange, not Asotin or Flora-Troy.

11
12 10. The CLLI for the Company's switch and remote are: ASOTWAXADSO AND
13 ANATWAXXRSO. The host switch is not LNP capable. The current estimate for the switch
14 upgrade is \$148,500. The Company stresses that at this time, this number is just an estimate. The
15 Company is also negotiating the cost of a switch replacement in order to provide the best solution to
16 ensure the customers receive the best value for the capital expenditure. Negotiations with the
17 switch manufacturer are ongoing.

18
19 11. In addition to the switch costs and the right to use fee, there are substantial costs
20 associated with implementation of LNP. These costs include such items as translation support
21 efforts, back office costs related to billing and plant records, and LNP dip contract costs. The
22 Company is investigating the extent of these costs.

1 **C. Technical Hurdles**

2 12. Until the Company upgrades or replaces its switch, it is technically impossible for
3 the Company to provide LNP. The economic cost of an estimated \$148,500 when the Company
4 serves less than one thousand five hundred access lines makes early deployment of the switch an
5 undue economic burden.

6 **III. Grant of this Petition is in the Public Interest**

7 13. The Act vests the state commissions with authority to balance the requests for
8 wireline-wireless number portability with the potential harmful public interest consequences, if the
9 Commission determines that such suspension or modification
10

- 11 (A) is necessary –
12 (i) to avoid a significant adverse economic impact on users of
13 telecommunications services generally;
14 (ii) to avoid imposing a requirement that is unduly economically
15 burdensome; or
16 (iii) to avoid imposing a requirement that is technically infeasible; and
17 (B) is consistent with the public interest, convenience, and necessity.¹⁰

18 14. A grant of this Petition will avoid a significant adverse economic impact on users of
19 the Company’s telecommunications services. As demonstrated herein, the costs of implementing
20 the number portability are significant, not only with respect to the deployment of the hardware and
21 software necessary to achieve porting capability, but also with respect to ongoing data costs and
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25 ¹⁰ 47 U.S.C. § 251(f)(2).

1 administration processes, and the establishment of the proper arrangements among the affected
2 carriers.

3 15. Initial and on-going costs incurred to satisfy the request of the CMRS provider
4 ultimately are recovered through rates paid by the Company's customers. Compounding the
5 adverse effect of this result is the fact that most of these customers will receive no benefit from the
6 provision of the wireline-to-wireless number portability. The Company has not received even an
7 inquiry, let alone a request, from a customer seeking to have his or her number ported to a CMRS
8 provider. In any event, the Company anticipates that the ultimate number of subscribers wishing to
9 port to wireless carriers will be very limited. Accordingly, all of the subscribers of the Company
10 would be adversely impacted by an increase in rates in order to accommodate the request of the
11 CMRS provider.¹¹ Under these circumstances, waiting for planned upgrades or switch replacement
12 makes sense.
13

14 16. Second, grant of a temporary suspension would avoid imposing a requirement that is
15 unduly economically burdensome. As a rural telephone company, the Company has a limited
16 customer base over which to spread its costs.¹² These costs are significant. The decision to incur
17 them becomes even more difficult to justify when weighed against the few, if any, public benefits
18 that may be gained by attempting to implement the capability to port numbers to the CMRS
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22 ¹¹ See also *Number Resource Decision*, 17 FCC Rcd at 262 (Imposing the cost of implementing the technology
23 for number pooling, which is the same technology that is used to implement number portability on small and rural
24 carriers "may delay efforts to bring advanced services to rural subscribers").

25 ¹² See *Id.* at 262 (The per line cost of implementing the technology for number pooling, which is the same
26 technology that is used to implement number portability would "be significantly higher for small and rural carriers
operating outside of the largest 100 MSAs than for carriers operating inside urban and metropolitan areas because of
these carriers' limited customer bases").

1 provider. The same balancing of competing interests was addressed previously and the decision
2 was made that smaller LECs, like the Company, need not expend scarce resources.

3 17. When the FCC initially promulgated its number portability rules, it agreed with
4 commenters that requiring rural LECs to provide number portability where no competitor has
5 requested such function would “burden rural LECs significantly without benefiting the public by
6 increasing competition.”¹³ Accordingly, the FCC determined to limit deployment of portability “to
7 those switches for which a competitor has expressed interest in deployment.”¹⁴ The FCC further
8 found that if competition is not imminent in the areas covered by rural/smaller LEC switches, “then
9 the rural or smaller LEC will not receive requests from competing carriers to implement portability,
10 and thus will not need to expend its resources, until competition actually develops in its service
11 area.”¹⁵ This reasoned and deliberate approach to competition has previously served well to avoid
12 having rural LECs incur premature or unnecessary expenses. However, with the advent of wireless
13 LNP, the CMRS carriers have blanketed the country with requests for LNP deployment with little
14 or no apparent evaluation or analysis of the markets for which the requests were made.
15
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17 18. As the switch is currently deployed for the Company, implementation of LNP is
18 technically infeasible. The Company’s parent, TDS Telecom, is in the planning process of
19 developing switch replacement schedules for its service areas across the nation. Once the schedule
20 is developed, the new switches will be installed, including the Asotin Telephone Company switch.
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23 ¹³ *Number Portability Reconsideration*, 12 FCC Rcd at 7298-99, 7301.
24 ¹⁴ *Id.* at 7301; *see also* 47 C.F.R. § 52.23(c) (“Beginning January 1, 1999, all LECs must make a long-term
25 database method for number portability available within six months after a specific request by another
telecommunications carrier in areas in which that telecommunications carrier is operating or plans to operate”).
¹⁵ *Number Portability Reconsideration*, 12 FCC Rcd at 7302.

1 Given the number of switches that TDS Telecom will have to replace (the exact number is still
2 under development), and the limited technical resources available to perform the associated work
3 activities, TDS Telecom will, by necessity, have to prioritize the deployments. The current rough
4 estimate is that the Asotin Telephone Company switch would be replaced in the spring of 2005.
5 Therefore, the Company is requesting a waiver until June 1, 2005.

6
7 19. Section 251(f)(2)(B) requires that the Commission shall determine that the requested
8 suspension "is consistent with the public interest, convenience and necessity."¹⁶ By granting the
9 temporary suspension, the Commission would avoid the potential waste of resources or, at the very
10 least, diminish the waste that would otherwise occur. Since the costs associated with LNP would be
11 recovered through the rates charged to customers, the public interest would be served by avoiding
12 such costs until and unless, and only to the extent, required.

13
14 20. The Company recognizes that the FCC has recently clarified intermodal LNP
15 obligations.¹⁷ The Company also notes that the FCC expressly recognized that in some
16 circumstances, waiver requests are appropriate. Even for operations within the one hundred largest
17 MSAs, waiver requests will be considered. Based on the Company's estimates for switch
18 replacement and the fact that the Company is not technically able to provide LNP with its current
19 host switch, the Company believes that this Petition meets the requirements for granting of a
20 waiver.

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24 ¹⁶ 47 U.S.C. § 251(f)(2)(B).

25 ¹⁷ *In the Matter of Telephone Number Portability*, CC Docket No. 95-116, FCC 03-284, (rel. November 10, 2003).

