

Agenda Date: December 18, 2003  
Item Number: **D3**

**Docket:** **UT-031934**  
Company Name: YCOM Networks, Inc.

Staff: Dave Dittmore, Telecommunications Engineer  
Glenn Blackmon, Assistant Director – Telecommunications

**Recommendation:**

Deny the request for temporary suspension of wireline to wireless number portability obligations.

Background:

On November 24, 2003, YCOM Networks, Inc., (YCOM) requested a suspension of its obligation, effective November 24, 2003, to provide local number portability in Pierce county, until May 24, 2004.

In Docket UT-031535, YCOM on September 24, 2003, requested an indefinite suspension of its obligation to provide local number portability. YCOM withdrew this petition on October 28, 2003, after Staff recommended that the WUTC deny the request for suspension.

Discussion:

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. The ability to port telephone numbers, i.e., to change providers without changing telephone numbers, is well established as fundamental to the success of competition for local exchange service. 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)*.

The FCC exempted wireless companies from LNP requirements for several years, but effective November 24, 2003 wireless companies within the top 100 metropolitan areas are now required to offer number portability. Customers can move their telephone numbers from one wireless provider to another, from wireless service to a wireline service provider, and from wireline service to a wireless service provider. On November 10, 2003, the FCC issued an order addressing various issues related to the porting of wireline numbers to wireless carriers and, for both wireless and wireline companies operating outside the top 100 metropolitan areas, extended the deadline for LNP implementation to May 24, 2004.<sup>1</sup>

The top 100 metropolitan areas in Washington include Snohomish, King, Pierce, and Clark counties. Outside of these areas, companies are not yet required to offer number portability, but the larger wireline and wireless companies have generally begun offering it wherever they provide service.

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<sup>1</sup>Federal Communications Commission, *Memorandum Opinion and Order*, CC Docket No. 95-116. The FCC established the Nov. 24, 2003 deadline in July 2002.

Federal law permits small telephone companies to request suspension or modification of the LNP obligations, including both the November 24 deadline for top 100 metropolitan areas and the May 24 deadline for other areas.

### Description of the Petition for Temporary Suspension

YCOM seeks a temporary suspension using its status as a small local telephone company. Sec. 251(f)(2) allows state commissions to suspend the number portability requirement for any company with fewer than two percent of the nation's subscriber lines.<sup>2</sup> YCOM seeks suspension of the obligation in its Yelm wire center.

YCOM asserts that it is technically infeasible for it to comply with the FCC's *Memorandum Opinion and Order* in CC Docket No. 95-116, which was issued on November 10, 2003. YCOM 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.

YCOM also claims that it can request a delay under 47 CFR 52.23(e), which states that a request  be made to the FCC sixty days prior to a deadline.

The petition asks that the WUTC extend the deadline to provide LNP until May 24, 2004, when YCOM is obligated to provide LNP in the remainder of its territory. YCOM

does not, within this petition, contest its eventual obligation to provide LNP but requests delay to put the required processes in place.

### Legal Standard

The WUTC's authority to consider a suspension comes from Sec. 251(f)(2) of the Telecommunications Act of 1996, which is included as Attachment A to this memo. In summary, the law provides that the WUTC consider the technical feasibility and economic burdens that would be imposed on a small company and/or its users if it is required to implement number portability.

### Analysis

Staff believes that the YCOM petition does not provide an adequate reason to suspend its obligations to comply with the FCC's number portability requirements. YCOM claims that its obligation to implement LNP did not exist until November 10. If that were accurate, Staff would agree that the November 24 deadline was technically infeasible. However, YCOM was

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<sup>2</sup> YCOM's petition states that it serves approximately 13,000 access lines.

obligated to implement number portability long before November 10. Under the federal rules adopted in 1996 (47 CFR 52.23), YCOM was obligated to implement LNP within six months after it received a *bona fide* request from another carrier. It received such a request<sup>4</sup> six months before the November 24 implementation date. (Sprint Spectrum originated their request May 16, 2003). A wireless carrier sent additional responses on September 5, 2003 and September 24, 2003, in an attempt to coordinate LNP offerings. Indeed, as noted earlier, YCOM filed an earlier suspension request in September, only to withdraw it in October. Staff believes that YCOM had sufficient time to implement its LNP obligations by November 24.

### Conclusion

Staff believes that YCOM did not act in a timely manner in this situation and could have met the November 24 deadline. YCOM's obligation existed long before the FCC's order was issued on November 10, so the claim that LNP implementation requires more than 14 days ultimately is irrelevant. Staff therefore recommends that the WUTC deny YCOM's petition.

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<sup>4</sup> YCOM asserted in its earlier petition that the requests were not *bona fide*.

Attachment A  
**Sec. 251(f)(2), Telecommunications Act of 1996**

(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.

The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.