

Agenda Date: March 24, 2004
Item Number: A1

Docket: UT-032085

Company Name: Asotin Telephone Company

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

Recommendation:

Grant the request for temporary suspension of wireline to wireless number portability obligations until June 1, 2006.

Background:

On December 11, 2003, Asotin Telephone Company, (Asotin) requested a temporary suspension of its obligation, effective May 24, 2004, to provide local number portability.

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, 2004.¹

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.

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

Asotin 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. Asotin seeks suspension of the obligation in its Asotin (host) and Anatone (remote) wire centers.

Asotin 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. Asotin asserts that expenditures of approximately \$100,000 would be required to upgrade the Asotin switch to offer number portability. TDS Telecom, parent company of Asotin, has decided to use this opportunity to upgrade its network at this time, and has decided to replace the Asotin switch rather than upgrade it. Replacement of multiple switches should allow negotiation of reduced costs.

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

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

The petition asks that the WUTC extend the deadline to provide LNP until it can replace the central office switch serving these two wire centers, allowing Asotin to offer LNP. At the present time, Asotin is researching appropriate vendors for a soft-switch type replacement switch. Asotin has agreed to provide interim local number portability using call-forwarding technology, which will require transporting calls originating from such subscribers to the point of interface with a cellular carrier. Staff believes that this is a reasonable compromise during the period until a new switch is available.

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 agrees with Asotin's decision to replace their switch rather than upgrade it. Staff believes that Asotin's petition provides an adequate reason to suspend its obligations to comply with the FCC's number portability requirements, and an adequate substitute technology in the interim.

Conclusion

Staff believes that Asotin is making reasonable efforts to comply with FCC requirements to upgrade its central office switches to LNP capability, and recommends that the Commission grant temporary suspension of FCC LNP obligations until Asotin can replace their switch no later than June 1, 2006.

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.