

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

In the Matter of the Petition)	DOCKET NO. UT-031934
Requesting Temporary Suspension of)	
Implementation of Number)	ORDER NO. 01
Portability –)	
)	
YCOM NETWORKS, INC.)	
.....)	ORDER DENYING SUSPENSION

BACKGROUND

1 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. 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 YCOM provides service in portions of Thurston and Pierce counties. Of its approximately 13,000 subscribers about 1,500 reside in Pierce County.

6 YCOM received requests for number portability from wireless carriers in May 2003.

7 In Docket UT-031535, filed on September 24, 2003, YCOM requested an indefinite suspension of its obligation to provide local number portability in all areas of the state where it provides local exchange service. YCOM withdrew this petition on October 28, 2003, after Staff recommended that the WUTC deny the request for suspension.

8 YCOM contends that their circumstances qualify for a temporary suspension of the number portability requirement. It argues that an FCC ruling on November 10, 2003, has not given the company sufficient time to meet the November 24, 2003, deadline for providing local number portability. YCOM identifies the following steps as 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 According to YCOM, the company was hesitant to incur LNP expenses prior to a final determination by the FCC in the event that the FCC ruling could have obviated the need for such an expenditure.
- 10 YCOM also included in its petition information in support of a waiver of the federal rule, 47 CFR 52.23(e). This section allows a LEC to seek a delay from the FCC, rather than the WUTC, and it requires that the request be made at least 60 days prior to the deadline to implementing LNP.
- 11 YCOM asks that the WUTC extend the deadline to provide LNP until May 24, 2004, when the remainder of its service area is obligated to provide LNP. YCOM does not, within this petition, contest its eventual obligation to provide LNP in the Yelm wire center but requests delay to put the required processes in place.
- 12 The Commission 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. Staff disputes YCOM'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 YCOM was 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 six months before the November 24 implementation date. It did not petition the FCC for a delay 60 days prior to the implementation date, as required by 47 CFR 52.23(e). Staff notes that YCOM itself filed a 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.

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) YCOM Networks, 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) YCOM 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