

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Utah Rural Telecom
Association's Request for Suspension of)
Wireline to Wireless Number)
Portability Obligations Pursuant to Section)
251(f)(2) of the Communications Act of)
1924, as Amended

DOCKET NO. 04-2424-01
ORDER DENYING PETITION

ISSUED: June 2, 2005

SYNOPSIS

The Commission denies the petition to suspend the deadlines for compliance with intermodal local number portability set forth in the Stipulation and Settlement approved by the Commission on July 7, 2004.

By The Commission:

PROCEDURAL HISTORY

On April 13, 2005, Manti Telephone Company, Bear Lake Communications, Inc., Carbon/Emery Telecom, Inc., Skyline Telecom, Central Utah Telephone, Inc., Emery Telephone, Gunnison Telephone Company, Inc., and Hanksville Telcom, Inc. ("Petitioners") filed a Petition for Suspension of Wireline to Wireless Number Portability Requirements seeking suspension of the 47 U.S.C. § 251(b)(2) intermodal local number portability compliance deadlines to which the Petitioners had previously agreed and which the Commission had approved and adopted. The Petitioners filed an Amended Petition on April 15, 2005.

On May 13, 2005, WWC Holding Co., Inc. ("Western Wireless") filed its Response in Opposition to Amended Petition for Suspension of Wireline to Wireless Portability. Also on May 13, 2005, the Division of Public Utilities ("Division") filed its Response to Amended Petition.

BACKGROUND AND DISCUSSION

On June 21, 2004, the Utah Rural Telecom Association ("URTA"), Division, and Western Wireless

entered into a Stipulation and Settlement (“Stipulation”) by whose terms Petitioners agreed to make intermodal LNP available by May 24, 2005, or six months after the receipt of a bona fide request, whichever is later. By Order dated July 7, 2004, the Commission approved and adopted this Stipulation.

Petitioners now urge the Commission to suspend their obligations under the Stipulation, arguing that the DC Circuit’s March 11, 2005, decision in *United States Telecom Association and CenturyTel, Inc., v. Federal Communications Commission* stayed enforcement of the FCC’s LNP Order establishing compliance deadlines for implementation of intermodal LNP pursuant to 47 U.S.C. § 251(b)(2). Since the FCC’s deadline has been vacated, argue Petitioners, the deadline established in the Stipulation should likewise be suspended pending further FCC action.

The Division, on the other hand, notes that the DC Circuit’s decision makes clear that the stay does not prevent voluntary compliance with the FCC’s LNP Order. The Division further notes that it is not unreasonable to view the Stipulation as an agreement to voluntarily comply with the LNP Order.

Western Wireless points out that a number of Utah telephone companies have already implemented intermodal LNP in their markets and that any Commission decision to suspend current deadlines will impact competition between Western Wireless and the Petitioners and limit the choice of Utah consumers.

We concur with the Division and Western Wireless. Petitioners voluntarily entered into the Stipulation and agreed to be bound by its terms. Petitioners have presented no unforeseen or extraordinary circumstances necessitating Commission suspension of those terms.

Therefore, based upon the foregoing information, and for good cause appearing, we enter the following:

ORDER

Denying the petition to suspend the deadlines for compliance with intermodal local number portability set forth in the Stipulation and Settlement approved by the Commission on July 7, 2004.

Pursuant to Utah Code 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 2nd day of June, 2005.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

G#44654