

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Utah Rural Telecom Association's Request for Suspension of Wireline to Wireless Number Portability Obligations Pursuant to Section 252(f)(2) )  
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DOCKET NO. 04-2424-01  
ORDER GRANTING SUSPENSION OF WIRELINE TO WIRELESS NUMBER PORTABILITY REQUIREMENTS

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ISSUED: March 17, 2004

By The Commission:

On February 24, 2004, the Utah Rural Telecom Association, on behalf of its member companies, All West Communications, Inc., Bear Lake Communications, Beehive Telephone Company, Carbon/Emery Telecom, Inc., Central Utah Telephone Company, Inc., Citizens Telecommunications Company of Utah, dba Frontier Communications of Utah, Emery Telecom, Gunnison Telephone Company, Hanksville Telecom, Inc., Manti Telephone Company, Navajo Communications Company, Inc., Skyline Telecom, Uintah Basin Telecommunication Association, Inc., UBET Telecom, Inc., and Union Telephone Company (Rural Companies), petitioned the Commission for an order granting a waiver for local number portability (LNP) requirements for wireline-to-wireless transfers. On March 10, 2004, the Division of Public Utilities (Division) submitted its memorandum in which it recommends granting the waiver. No other responses to the Rural Companies' February 24, 2004, Petition have been filed with the Commission.

47 U.S.C. §251(b)(2) imposes upon each telecommunications carrier a "duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the [Federal Telecommunications] Commission." Number portability permits a telecommunications subscriber to retain an assigned telephone number when changing providers of telecommunications services. The Federal Telecommunications Commission (FCC) has issued orders and promulgated rules concerning number portability, numbering administration and cost recovery for number portability. See, e.g., 47 C.F.R. §§52.1-52.33. On November 10, 2003, the FCC issued a Memorandum Opinion and Order and Further Notice of Proposed Rulemaking in CC Docket 95-116 (November 10,

2003, Order) FCC 03-284. In that order, the FCC required local exchange carriers (LECs) in the nation's top 100 Major Service Areas to provide LNP to all telecommunications carriers, including commercial mobile radio service (CMRS) providers by November 24, 2003. In the November 10, 2003, Order, the FCC recognized that small LECs operating in rural areas would face technical, operational and other difficulties implementing LNP and granted LECs serving outside the 100 Major Service Areas a waiver, extending their requirement to be prepared to provide LNP to May 24, 2004. In further recognition of the continuing difficulties faced by small, rural telecommunications companies, the FCC granted an additional waiver for small LECs operating in the 100 Major Service Areas. January 16, 2004, FCC Order, CC Docket No. 95-116, FCC 04-12.

In the Rural Companies' Petition filed with this Commission, these LECs assert that they continue to face technical and operational difficulties to implement LNP in their territories. They note that the FCC has still not resolved the issues, concerning LNP with CMRS providers, identified in the FCC's own orders and the Further Notice of Proposed Rulemaking. The Rural Companies contend that the efforts and economic expenses to themselves and their customers, to prepare to overcome their technical difficulties and prepare to be able to provide LNP upon receiving a bonafide request, outweigh the benefits which a customer or the public may receive from LNP of wireline-to-wireless carriers, a form of intermodal portability. They state that none of their customers have requested that their wireline telephone number be ported to a wireless carrier. They state that no CMRS provider has identified an estimate of the number of customers which may request intermodal LNP; nor a specific request to port a customer's number. Under existing FCC regulation, the costs of preparing for intermodal portability will be borne by all customers of the Rural Companies, even though no customers have expressed a desire for the capability and, likely, few would avail themselves of the capability if made available.

Because of the costs, the continuing difficulty to implement LNP in their territories and the unresolved issues associated with intermodal portability that still need to be addressed by the FCC, the Rural Companies request this Commission grant them a waiver or suspension for intermodal portability of one year or until the FCC or this

Commission has considered and resolved the remaining technical and regulatory LNP implementation issues, which ever occurs first. 47 U.S.C. 251(f) does grant state utility commissions the authority to grant such a waiver or suspension for a local exchange carrier with fewer than 2 percent of the nation's subscriber lines. Each of the Rural Companies has fewer than 2 percent of the nation's subscriber lines; indeed their combined subscriber line base is less than the 2 percent level. We may grant the requested suspension upon two points: 1. That it is necessary to i) 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, 2. That it is consistent with the public interest, convenience, and necessity. 47 U.S.C. §251(f).

Based upon our consideration of the February 24, 2004, Petition filed by the Rural Companies, we enter the following Order granting the requested suspension. We will require the Rural Companies to provide the Commission with supporting information and direct them and the Division to provide updated reports during the suspension period.

Wherefore, it is ORDERED:

1. Each of the individual telecommunications companies identified in the February 24, 2004, Petition is granted a suspension of their intermodal local number portability obligations until May 24, 2005, or until further order this Commission or the Federal Communications Commission.
2. On or before September 1, 2004, each company shall file with the Commission information concerning the specific technical and operational steps that must be taken to comply with the LNP requirements, the specific expenses and costs anticipated to comply with the LNP requirements, the anticipated recovery amount an individual customer would bear for the recovery of these expenses and costs, and the projected number of customers who may request LNP during the remainder of the suspension period.
3. The Division and any interested person will be permitted to review the submitted information. The Division will review the information and submit a memorandum concerning its review of each company's filing within one month of the submission; comments from other interested persons may be similarly filed.

4. During the suspension period, each company will update, monthly, its filed information for any changes which may have occurred.

5. Any of the Rural Companies, the Division, any interested person or the Commission, on its own motion, may seek to modify the suspension should they believe that the suspension is no longer warranted.

DATED at Salt Lake City, Utah, this 17<sup>th</sup> day of March, 2004.

/s/ Ric Campbell, Chairman

/s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary

GW#37430