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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Rural Telephone Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE
APPLICATION OF RURAL
TELEPHONE COMPANY FOR
ADDITIONAL SUSPENSION OF LNP
REQUIREMENTS.

Case No. *RUR-T-0402*

**APPLICATION OF RURAL
TELEPHONE COMPANY**

Rural Telephone ("RTC" or "Company"), by and through its attorneys, Givens Pursley LLP, files this Petition for an extension of its current Temporary Suspension of Wireline to Wireless Number Portability Responsibilities ("Petition"). On March 26th, 2004, Idaho Public Utilities Commission ("Commission") Order No. 29452 granted the Petition of the Idaho Telephone Association ("ITA"), filed on behalf of sixteen local exchange carriers, for a suspension of the carriers' requirement to implement intermodal local number portability for six months, from May 24, 2004 to November 24, 2004. RTC was one of the sixteen local exchange carriers. RTC hereby requests that the Commission grant an additional 12 month extension to RTC for implementation of its LNP requirements in its Tipanuk exchange, and 36 month extensions in its Atlanta, Boise River, Prairie, Shoup, and Three Creek exchanges.

I. BACKGROUND

1. The Company is a rural telephone company as defined by the Act.¹ Additionally, the Company satisfies the criteria set forth in Section 251(f)(2), which provides in pertinent part, that LECs “with fewer than two percent of the Nation’s subscriber lines installed in the aggregate nationwide may petition a state commission for a suspension or modification”² of the number portability requirements.³ As of December 2002, approximately 188 million local telephone lines were in service nationwide.⁴ The Company has approximately 700 lines and serves far less than the 2% threshold of 3.76 million access lines. Therefore, the Company is eligible under the applicable FCC rule to petition this Commission for relief.

2. As the Commission is aware, the Company provides local exchange and exchange access services within its service areas. The Company serves the following rate centers: Atlanta, Boise River, Prairie, Shoup, Tipanuk and Three Creek. These rate centers are all located in rural and remote areas of Idaho. The Company’s largest rate center, Boise River, serves approximately 350 customers, with the second largest rate center being Tipanuk, which serves approximately 118 customers. The company’s other rate centers serve less than 50 customers each. The Company has switches in each one of these rate centers.

3. None of the Company’s rate center switches are LNP capable. The Company serves each of these rate centers with individual Redcom host switches. The

¹ 47 U.S.C. § 153(37).

² 47 U.S.C. § 251(f)(2).

³ Section 251(b)(2) states that “The duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.” 47 U.S.C. § 251(b)(2).

⁴ See “Federal Communications Commission Releases Study on Telephone Trends,” FCC News Release (rel. Aug. 7, 2003).

current version of the Company's Redcom switches would require major upgrades or total switch replacements for LNP functionality. The Company is in the process of upgrading the Tipanuk switch with SS7 and LNP functionality, but this upgrade will not be completed until the fall of 2005. The projected cost for this Tipanuk switch upgrade is approximately \$51,575. The cost estimate for upgrading all the remaining exchange switches for LNP capability is approximately \$688,437 for a total cost of \$ 740,012. Further, the Company stresses that at this time, the amounts provided for upgrading the switches to make them LNP capable are just estimates. The costs could be higher. The Company will negotiate the cost of any switch replacements/upgrades in order to provide the best solution to ensure the customers receive the best value for the capital expenditure. For the switch upgrade costs alone, the cost per line (based upon the estimates) would be \$17.57 per month over a five year amortized recovery period. FCC rules currently allow LNP costs to be recovered from all end users (47 CFR §52.33).

4. In addition to the switch costs, there are other substantial costs associated with implementation of LNP. These costs include such items as translation support efforts, back office costs related to billing and plant records, and LNP dip contract costs. To the extent that the Company is required to port numbers (and transport associated calls) beyond its rate center(s) to other rate centers where wireless carriers have established their points of presence, the Company will likely be required to install facilities that the Company does not currently have in place. The Company will need either to establish facilities between its exchanges and the wireless carrier's point of presence or arrange with an intermediate carrier to transport the call. None of these facilities and/or arrangements currently exist and it will obviously require time to put

them in place. Many of these actions must occur sequentially and some are dependent upon the availability and time schedules of vendors and other carriers. The Company is currently investigating the extent of these requirements and their respective costs.

5. In addition to the costs, the only RTC exchange where wireless carriers have service coverage is in the **Tipanuk** exchange area. All the other RTC exchanges: **Atlanta, Boise River, Prairie, Shoup, and Three Creek** have no wireless service coverage. The Company has verified this with the wireless carriers who have sent RTC requests for intermodal Local Number Portability (LNP) by reviewing these wireless carrier's coverage maps that are available on their websites. The Company has received letters from wireless carriers, T-Mobile USA ("T-Mobile") and Verizon Wireless ("Verizon") requesting LNP in all RTC service areas, whereas, Sprint PCS ("Sprint") has requested LNP only in RTC's Tipanuk exchange service area.

6. Although LNP was established as an obligation over eight years ago, the Company has not received a single request for LNP from any of its customers during that entire time period. Further, despite the widespread publicity of the FCC Order since November 2003, the Company has still not received even one consumer request for intermodal LNP.

7. Until the Company upgrades or replaces its switches, it is technically impossible for the Company to provide LNP by the November 24, 2004 deadline. The estimated economic cost of \$740,000.00 to upgrade or replace its switches, in light of the fact the Company serves approximately seven hundred access lines, makes deployment of the switches at this time an undue economic burden. But the Company believes that it

will be able to complete its switch upgrade and have other facilities in place to implement LNP by the fall of 2005 in its Tipanuk exchange area.

II. GRANTING THIS PETITION IS IN THE PUBLIC INTEREST

8. The Act vests the state commissions with authority to balance the requests for wireline-wireless number portability with the potential harmful public interest consequences, if the 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.⁵

9. Grant this Petition will avoid a significant adverse economic impact on users of the Company's telecommunications services. As demonstrated herein, the costs of implementing number portability are significant, not only with respect to the deployment of the hardware and software necessary to achieve porting capability, but also with respect to ongoing data costs and administrative processes, and the establishment of the proper arrangements among the affected carriers. Obviously, this is a significant adverse economic impact for the Company's customers. Furthermore, it is extremely inequitable and contrary to the public interest and ratemaking policies, to force consumers who are not using a service to shoulder the entire cost..

10. Initial and on-going costs incurred to satisfy the request of the CMRS providers ultimately are recovered through rates paid by the Company's customers. Compounding the adverse effect of this result is the fact that most of these customers will

⁵ 47 U.S.C. § 251(f)(2).

receive no benefit from the provision of the wireline-to-wireless number portability. One of the most significant reasons why this Petition should be granted is the complete lack of any demand for intermodal LNP. The Company has not received a single request for LNP from any of its customers. Moreover, there hasn't been a high level of demand for intermodal LNP in other rural areas. LNP implementation by the Company at this time and under the present circumstances represents an unduly burdensome economic expense, which would cause a significant adverse economic impact on the Company's end users. Further, this is contrary to the universal service goals for rural consumers because incurring these costs will unnecessarily increase the Company's state USF draw. Accordingly, all of subscribers in Idaho would be adversely impacted by an increase in rates in order to accommodate the request of the CMRS providers.⁶ Under these circumstances, waiting for planned switch replacement makes sense.

11. When the FCC initially promulgated its number portability rules, it agreed with commenters that requiring rural LECs to provide number portability where no competitor has requested such function would "burden rural LECs significantly without benefiting the public by increasing competition."⁷ Accordingly, the FCC determined to limit deployment of portability "to those switches for which a competitor has expressed interest in deployment."⁸ The FCC further found that if competition is not imminent in the areas covered by rural/smaller LEC switches, "then the rural or smaller LEC will not receive requests from competing carriers to implement portability, and thus will not need

⁶ See also *Number Resource Decision*, 17 FCC Rcd at 262 (Imposing the cost of implementing the technology for number pooling, which is the same technology that is used to implement number portability on small and rural carriers "may delay efforts to bring advanced services to rural subscribers").

⁷ *Number Portability Reconsideration*, 12 FCC Rcd at 7298-99, 7301.

⁸ *Id.* at 7301; see also 47 C.F.R. § 52.23(c) ("Beginning January 1, 1999, all LECs must make a long-term database method for number portability available within six months after a specific request by another telecommunications carrier in areas in which that telecommunications carrier is operating or plans to operate").

to expend its resources, until competition actually develops in its service area.”⁹ This reasoned and deliberate approach to competition has previously served the interests of rural LECs well by allowing rural LECs to avoid incurring premature or unnecessary expenses. However, with the advent of wireless LNP, the CMRS carriers have blanketed the country with requests for LNP deployment with little or no apparent evaluation or analysis of the markets for which the requests were made.

12. Given the fact that the Company has no present ability to provide LNP or to provide for the porting of numbers and associated calls to the wireless carriers’ facilities and the fact that no customers have, to date, requested that their numbers be ported, the Company believes it is appropriate for this Commission to issue its order to extend the suspension of the FCC’s requirement that it implement local number portability on May 24, 2004 for additional period of time. As noted, the Company seeks suspension of the referenced FCC Order as to its **Tipanuk** exchange to and including November 24, 2005 and a three year suspension to its other exchanges: **Atlanta, Boise River, Prairie, Shoup, and Three Creek**. These suspensions are appropriate because they will permit the Company to prudently undertake the necessary steps to make its switches and facilities capable of providing LNP.

13. Commission approval of the relief sought in this Petition would prevent the Company from being in potential violation of applicable FCC *Orders* and potentially avoid increased costs for its Idaho customers. Granting the Company’s request will allow the Company more time to implement the technical requirements for LNP and provide more time for the FCC to clarify the LNP requirements for rural telephone companies. To the Company’s knowledge, there will be no negative effect on its customers or the

⁹ *Number Portability Reconsideration*, 12 FCC Rcd at 7302.

general public that would result from the granting of this request for suspension action.

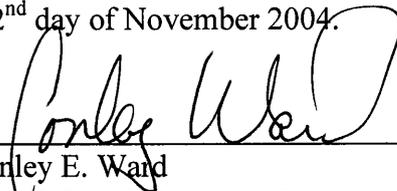
14. The Company recognizes that the FCC has recently clarified intermodal LNP obligations.¹⁰ The Company also notes that the FCC expressly recognized that in some circumstances, waiver requests are appropriate. Based on the Company's estimates for switch replacement and the fact that the Company is not technically able to provide LNP with its current switches, the Company believes that this Petition meets the requirements for granting of a waiver.

III. RELIEF REQUESTED

16. Based on the foregoing, the Company respectfully requests that the Commission:

1. Suspend enforcement of the requirements to which this petition applies with respect to Rural Telephone Company effective November 24, 2004, pending action by the Commission on this petition; and
2. Grant a waiver of the Company's obligation to provide local number portability until November 24, 2005 for its **Tipanuk** exchange rate center switch and a three year suspension to its other exchanges, the **Atlanta, Boise River, Prairie, Shoup, and Three Creek** rate centers; and
3. Grant such other and further relief as the Commission deems appropriate.

RESPECTFULLY SUBMITTED this 22nd day of November 2004.



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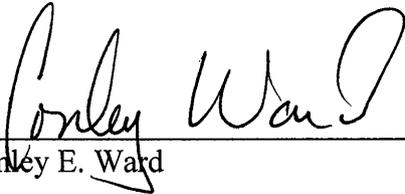
¹⁰ *In the Matter of Telephone Number Portability*, CC Docket No. 95-116, FCC 03-284, (rel. November 10, 2003).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of November 2004, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Jean Jewell, Secretary
Idaho Public Utilities Commission
472 W. Washington Street
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Boise, ID 83720-0074

U.S. Mail
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 Overnight Mail
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