

STATE OF ILLINOIS

BEFORE THE ILLINOIS COMMERCE COMMISSION

Metamora Telephone Company)
)
Petition for Suspension or Modification of)
Section 251(b)(2) requirements of the Federal)
Telecommunications Act pursuant to Section)
251(f)(2) of said Act; for entry of Interim Order;))
and for other necessary relief.)

Docket No. 04-0366

DIRECT TESTIMONY OF
MICHAEL A. MCDERMOTT
ON BEHALF OF VERIZON WIRELESS

Prefiled: July 14, 2004

TABLE OF CONTENTS

I	Introduction.....	3
II	Verizon Wireless is ready to proceed with LNP in the Petitioner’s service area.	7
III	The Petitioner is required to offer intermodal LNP.....	12
IV	This Commission must follow the federal standard for granting the requested relief.....	14
V	There is no undue economic burden on the Petitioner in implementing the required intermodal LNP	18
VI	There IS demonstrated demand for intermodal LNP in Metamora’s Service Territory.....	25
VII	Conclusion	26

1
2
3
4
5
6
7
8
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I INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Michael A. McDermott, and my business address is 1515 Woodfield Drive,
Suite 1400, Schaumburg, IL, 60173.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am the Regional Director of State Public Policy for Verizon Wireless.

**Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND BUSINESS
EXPERIENCE.**

A. I graduated from the University of Illinois at Springfield in 1990 with a Bachelor of Arts
Degree in Communications. After several years on the Issues Staff of Illinois House
Speaker Michael Madigan, I represented various entities before the Illinois General
Assembly. In 1997, a predecessor company to Verizon Wireless, PrimeCo Personal
Communications, hired me as a Manager of State Government Affairs covering five
states in the Midwest where I was responsible for all legislative and regulatory matters
impacting the Company. In 2000, after Bell Atlantic Mobile, GTE Mobility, Vodafone,
and PrimeCo's formed Cellco Partnership d/b/a Verizon Wireless, I was promoted to
Associate Director for State Public Policy. In 2003, I was promoted to Regional Director
of State Public Policy. In this capacity, I oversee state legislative and regulatory matters
for the Company in nine states, including Illinois.

23

24 **Q. PLEASE DESCRIBE YOUR BACKGROUND IN TELECOMMUNICATIONS?**

25 A. For the past seven and a half years, I have coordinated, crafted and implemented
26 legislative and regulatory telecommunications policy in a multi-state region. I have had
27 personal interaction with legislators, public utility commissioners and their respective
28 staffs on a wide array of issues related to the wireless telecommunications industry.

29

30 **Q. FOR WHOM ARE YOU TESTIFYING IN THIS PROCEEDING?**

31 A. I am testifying on behalf of Verizon Wireless.

32

33 **Q. HAVE YOU TESTIFIED BEFORE ON BEHALF OF VERIZON WIRELESS?**

34 A. On November 6, 2003, I testified before the West Virginia Public Service Commission
35 on the Statewide 2-1-1 Referral Service General Order 187.25 then known as Case No.
36 01-0689-T-GI. The issues involved in this matter were preemption of charges related to
37 211 services for the wireless industry. Additionally, I served on the “Executive
38 Committee” made of the “Settling Parties” in Indiana Utility Regulatory Cause Number
39 42144, regarding the establishment of a state universal service fund (“USF”) Also, I have
40 testified on numerous legislative proposals at the Committee level in Illinois, Wisconsin,
41 Indiana, Michigan, Ohio to name a few. Between June 7 and June 11, 2004, I testified
42 before this Commission in opposition to petitions for suspension of the duty to provide
43 intermodal local number portability (“LNP”) filed by Gridley Telephone Company

44 (Docket No. 04-0180), Flat Rock Telephone Co-Op, Inc. (Docket No. 04-0181),
45 Cambridge Telephone Company (Docket No. 04-0182), Henry County Telephone
46 Company (Docket No. 04-0183), LaHarpe Telephone Company (Docket No. 04-0184),
47 Hamilton County Telephone Co-Op (Docket No. 04-0185), Moultrie Independent
48 Telephone Company (Docket No. 04-0189), Glasford Telephone Company (Docket No.
49 04-0193), Viola Home Telephone Company (Docket No. 04-0194), New Windsor
50 Telephone Company (Docket No. 04-0195), Montrose Mutual Telephone Company
51 (Docket No. 04-0196), Woodhull Community Telephone Company (Docket No. 04-
52 0197), Leaf River Telephone Company (Docket No. 04-0198), Oneida Network Services,
53 Inc. (Docket No. 04-0199), Oneida Telephone Exchange (Docket No. 04-0200),
54 Reynolds Telephone Company (Docket No. 04-0206), Adams Telephone Co-Op (Docket
55 No. 04-0228), Shawnee Telephone Company (Docket No. 04-0236), The El Paso
56 Telephone Company (Docket No. 04-0238), Odin Telephone Exchange, Inc. (Docket No.
57 04-0239), Yates City Telephone Company (Docket No. 04-0240), and Grandview Mutual
58 Telephone Company (Docket No. 04-0282). I also testified before the Iowa Utility Board
59 in opposition to a waiver request by Iowa Telecom Services, Inc. (Docket No. SPU04-8).

60

61 **Q. PLEASE DESCRIBE VERIZON WIRELESS' OPERATIONS IN THE STATE OF**
62 **ILLINOIS.**

63 A. Verizon Wireless was formed as a joint partnership operating the U.S. wireless
64 businesses of Bell Atlantic Corp. and GTE Corp. - now Verizon Communications, Inc.

65 (NYSE:VZ) - and Vodafone (NYSE and LSE: VOD). Verizon Wireless' predecessor
66 companies include Bell Atlantic Mobile, AirTouch Cellular, GTE Wireless Incorporated,
67 PrimeCo Personal Communications, and AirTouch Paging. All wireless carriers making
68 up Verizon Wireless, including, in Illinois, Illinois RSA 6 & 7 Limited Partnership,
69 Illinois SMSA Ltd. Partnership, Chicago SMSA Ltd. Partnership and Cybertel Cellular
70 Telephone Company, do business as Verizon Wireless. Verizon Wireless provides
71 Commercial Mobile Radio Service ("CMRS") pursuant to 47 U.S.C. § 332 and Sec.13-
72 214 of the Act. Verizon Wireless has its principal place of business at Bedminster, New
73 Jersey. Our Midwest Area, of which I am Regional Director of State Public Policy, is
74 headquartered in Schaumburg, Illinois.

75

76 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

77 A. Verizon Wireless objects to Metamora's request for an additional suspension of its duty
78 to provide intermodal LNP in accordance with the requirements prescribed by the Federal
79 Communications Commission ("FCC") in its *Telephone Number Portability*,
80 Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 18 FCC
81 Rcd. 23697 (2003) ("*Intermodal Porting Order*"). I am familiar with the request for
82 additional suspension filed by Metamora Telephone Company ("Metamora"), as well the
83 issues raised in the Direct Testimonies and Exhibits of Jason P. Hendricks, on behalf of
84 Metamora.

85 My testimony addresses the following issues:

- 86
- Verizon Wireless is ready to proceed with intermodal LNP;
 - 87 • The Petitioner is required to offer intermodal LNP;
 - 88 • This Commission must follow the federal standard for granting the
89 requested relief;
 - 90 • Availability of intermodal LNP is in the public interest.
 - 91 • There is demand for intermodal LNP in the Petitioner's Service territory.
- 92

93 **II VERIZON WIRELESS IS READY TO PROCEED WITH LNP IN THE**
94 **PETITIONER'S SERVICE AREA.**

95 **Q. IF THE ILLINOIS COMMERCE COMMISSION HAD NOT ISSUED AN**
96 **INTERIM ORDER GRANTING THE PETITIONER A TEMPORARY**
97 **SUSPENSION OF ITS INTERMODAL LNP OBLIGATIONS, WOULD VERIZON**
98 **WIRELESS HAVE BEEN PREPARED TO PROCEED WITH INTERMODAL**
99 **LNP WITH THE PETITIONER ON MAY 24, 2004?**

100 A. Absolutely. Verizon Wireless has been providing intermodal LNP since November 24,
101 2003 in the top 100 MSAs. Since May 24 2004, Verizon Wireless has expanded
102 intermodal LNP to areas in Illinois, such as those served by the Petitioner, outside the top
103 100 MSAs where Verizon Wireless offers service.

104

105 **Q. IN WHAT AREAS OF ILLINOIS HAS INTERMODAL LNP BEEN**
106 **AVAILABLE?**

107 A. Intermodal LNP has been available in Cook County, DeKalb County, DuPage County,
108 Grundy County, Kane County, Kendall County, Lake County, McHenry County, and
109 Will County, which are part of the Chicago MSA throughout SBC and Verizon landline
110 service areas since November 24, 2003. Since May 24, 2004, intermodal LNP has been
111 available, or Verizon Wireless is working with the incumbent local exchange carrier to
112 make it available, in the remainder of the SBC and Verizon landline service areas
113 throughout the state as well as the local telephone service areas served by Citizens
114 Telephone Company, Frontier Communications, Inc., and Illinois Consolidated
115 Telephone Company. In addition Gallatin River Telephone Company marked its
116 switches as portable in the Local Exchange Routing Guide (“LERG”) on May 24, 2004,
117 and Geneseo Telephone Company marked its switches as portable in the LERG on June
118 18, 2004. On June 16, 2004, Geneseo filed the 3rd Revision to Page 39 of its FCC
119 Tariff 1 implementing an LNP Surcharge rate of \$1.06.¹ On June 17, 2004, Geneseo

¹ *Geneseo Telephone Company FCC Tariff No. 1*, FCC Transmittal 8, June 16, 2004, FCC Electronic Tariff Filing System, <http://svartifoss2.fcc.gov/cgi-bin/ws.exe/prod/ccb/etfs/bin/binary_out.pl?69337>.

120 sought leave to withdraw Transmittal No. 8, “in order to spend more time evaluating the
121 service with the FCC before refilling it in the tariff.”²

122

123 **Q. HOW WILL VERIZON WIRELESS’ EFFORTS TO SERVE AND ATTRACT**
124 **NEW CUSTOMERS BE AFFECTED BY THESE PROCEEDINGS?**

125 A. That is one of Verizon Wireless’ major concerns and one of the reasons we chose to
126 intervene in this proceedings. Clearly, based on the interim order already granted by the
127 Commission, the Petitioner is not ready or willing to provide intermodal LNP. We are
128 very concerned about the consumer confusion that will result from this disparate
129 treatment of consumers throughout Illinois and throughout the country. When a customer
130 of the Petitioner approaches Verizon Wireless and asks to port a number, we will have to
131 tell that customer that their local provider sought and was granted a waiver by this
132 Commission from its federal obligation to provide intermodal LNP. If customers are
133 unhappy, and I anticipate they may be, they will express their disappointment to Verizon
134 Wireless, to this Commission, and to the FCC. In addition, there is bound to be some
135 general confusion as to who may and may not port their numbers.

136

² *Geneseo Telephone Company FCC Tariff No. 1, Application No. 2*, June 17, 2004, FCC Electronic Tariff Filing System, <http://svartifoss2.fcc.gov/cgi-bin/ws.exe/prod/ccb/etfs/bin/binary_out.pl?69512>.

137 **Q. CAN'T VERIZON WIRELESS EXPLAIN A SUSPENSION TO THE ANGRY**
138 **CUSTOMERS?**

139 A. Yes and we will. However, there has been a great deal of press coverage regarding the
140 availability of LNP, not just from Verizon Wireless, but from the entire industry. The
141 FCC has also issued press releases announcing the availability of intermodal LNP. In
142 addition, wireless educational and marketing efforts are not and cannot be limited by
143 exchange service area, but are by media markets that almost always overlap
144 telecommunication service areas. For example, if Verizon Wireless advertises in the
145 *Peoria Journal Star* or on WEEK, WHOI, WMBD, or WTVP television stations in
146 Peoria, it is reasonable to assume that some of the Petitioner's customers will see such
147 advertisements. The entirety of the Petitioner's Metamora and Germantown Hills
148 exchanges are located in Woodford County, with a small portion in Tazewell County.
149 Both of these counties are part of the Peoria Metropolitan Statistical Area ("MSA"),
150 which encompasses Marshall, Peoria, Stark, Tazewell and Woodford Counties, Illinois.

151 By suspending rural ILECs' obligations to provide LNP, the Commission will
152 create a patchwork quilt of areas where LNP is available, and next door where it is not
153 available, as shown graphically on the map attached as Attachment A.

154

155 **Q. THE PETITION IN THIS DOCKET WAS FILED ON APRIL 30, 2004. HOW**
156 **LONG BEFORE THAT DID THE PETITIONER KNOW THAT THEY WOULD**
157 **NEED TO PROVIDE INTERMODAL LNP?**

158 A. The Petitioner should have known since 1996 that it would be required at some point to
159 provide LNP. Section 251(b)(3) of the Telecommunications Act of 1996 requires all
160 local exchange carriers to provide local number.³ In its rules implementing the LNP
161 requirements of the Act, the FCC determined that the public interest would be served by
162 requiring carriers to implement LNP in all areas, but conditioned the requirement to
163 implement LNP in rural areas on a carrier receiving a bona fide request (“BFR”) from
164 another carrier.⁴ Verizon Wireless sent Metamora a BFR on October 22, 2003.

165 On June 27, 1996, the FCC issued its First Report and Order on Local Number
166 Portability.⁵ In that Report and Order, the FCC reiterated that “number portability must
167 be provided in these areas by all LECs to all telecommunications carriers, including
168 commercial mobile radio services (CMRS) providers.”⁶

³ 47 U.S.C. § 251(b)(3).

⁴ 47 C.F.R. § 52.26.

⁵ *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352 (1996) (“*First Report and Order on Local Number Portability*”).

⁶ *Id* at ¶3

169 The FCC granted a number of extensions⁷ to intermodal LNP up until July 2002
170 when it issued a final order requiring wireless LNP by November 24, 2003.⁸ Therefore,
171 the Petitioner certainly should have known about and begun preparing for intermodal
172 LNP in July 2002. Despite the fact that the FCC had given the industry over seven years
173 to get ready, the FCC gave rural carriers, such as the Petitioner, an additional six months,
174 until May 24, 2004, to prepare for intermodal LNP.⁹ Though the Petitioner had years to
175 prepare for LNP, it waited until less than 2 months before the FCC's mandate's effective
176 date to file the instant petition with this Commission.

177

178 **III THE PETITIONER IS REQUIRED TO OFFER INTERMODAL LNP.**

179 **Q. IS THE PETITIONER REQUIRED BY THE FCC TO OFFER INTERMODAL**
180 **LNP?**

181 A. Yes. But for this Commission's Interim Order, the Petitioner would have been required
182 by the FCC's *Intermodal Porting Order* to provide intermodal LNP on May 24, 2004.
183 The FCC determined that the public interest would be served by requiring carriers to

⁷ Ironically, in the past this very Commission opposed such requests, arguing "the benefits of LNP [were being] ignored." *See*, Letter from Thomas G. Aridas, General Counsel, Illinois Commerce Commission to Margalie Roman Salas, Federal Communications Commission, re: Docket No. 01-184, October 16, 2001 (Attached hereto as Attachment B.)

⁸ *Local Number Portability, Memorandum Opinion and Order*, 17 FCC Rcd 14972 (2002).

⁹ *Intermodal Porting Order*.

184 implement LNP in all areas, but conditioned the requirement to implement LNP on a
185 carrier receiving a bona fide request (“BFR”) from another carrier.¹⁰

186

187 **Q. HAS VERIZON WIRELESS SENT A BFR TO THE PETITIONER**
188 **REQUESTING THE IMPLEMENTATION OF LNP?**

189 A. Yes, Verizon Wireless sent a BFR to the Petitioner on October 22, 2003, with a follow-up
190 letter on November 14, 2004. A copy of the BFR and follow-up letter is attached to Mr.
191 Hendrick’s testimony as Exhibit 1.1. While Mr. Hendricks now claims that the Petitioner
192 thought that Verizon Wireless’ October 22, 2003 BFR was “a request for ‘location
193 portability’ rather than ‘local number portability,’”¹¹ the Petitioner acknowledged that the
194 October 22, 2003 correspondence from Verizon Wireless was indeed a BFR for LNP. A
195 copy of the Petitioner’s acknowledgement of Verizon Wireless BFR is attached to Mr.
196 Hendrick’s testimony as Exhibit 1.1.

197 Verizon Wireless’ lawful request and BFR to implement intermodal LNP
198 provided the Petitioner with more than 6 months notice to deploy intermodal LNP. The
199 Petitioner waited more than 5 months to ask for a suspension of its intermodal LNP
200 obligation and then failed to serve Verizon Wireless with its Petition.

201

¹⁰ 47 C.F.R. § 52.26.

¹¹ See, Direct Testimony of Jason Hendricks on behalf of Metamora Telephone Company, ICC Docket No. 04-0366, p. 4.

202 **IV THIS COMMISSION MUST FOLLOW THE FEDERAL STANDARD FOR**
203 **GRANTING THE REQUESTED RELIEF.**

204 **Q. WHAT IS THE STANDARD FOR GRANTING THE PETITIONER’S**
205 **REQUESTS FOR SUSPENSION OF THEIR LNP OBLIGATIONS?**

206 **A. Section 251(f)(2) of the Act permits state commissions to suspend a carrier’s LNP**
207 **obligations only:**

208 to the extent that, and for such duration as, the State commission
209 determines that such suspension or modification —
210 (A) is necessary: (i) to avoid significant adverse impact on users
211 of telecommunications services generally; (ii) to avoid imposing a
212 requirement that is unduly economically burdensome; or (iii) to
213 avoid imposing a requirement that is technically infeasible; and
214 (B) is consistent with the public interest, convenience, and
215 necessity.¹²

216 “Congress intended exemption, suspension, or modification of the section 251
217 requirements to be the exception rather than the rule.... [the FCC] believes that Congress
218 did not intend to insulate smaller or rural LECs from competition.”¹³ Further in
219 codifying its interpretation of Section 251(f)(2), the FCC found that:

220 In order to justify a suspension or modification under section
221 251(f)(2) of the Act, a LEC must offer evidence that the
222 application of section 251(b) or section 251(c) of the Act would be
223 likely to cause undue economic burden beyond the economic

¹² 47 U.S.C. § 251(f)(2).

¹³ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report & Order, 11 FCC Rcd. 15499, ¶1262 (1996) (“*Local Competition First Report and Order*”).

224 burden that is typically associated with efficient competitive
225 entry.¹⁴

226

227 **Q. HOW SHOULD THIS COMMISSION DETERMINE WHETHER OR NOT TO**
228 **SUSPEND THE PETITIONER’S INTERMODAL LNP OBLIGATIONS?**

229 A. The FCC has said that the Petitioner bears the burden of demonstrating that it meets the
230 statutory and regulatory standards for a suspension of their intermodal LNP obligations.
231 The Petitioner must offer evidence that application of the intermodal LNP obligations
232 would be likely to cause undue economic burdens. In fact:

- 233 • the Petition and the Petitioner’s prefiled testimony do not compare their
234 economic projections of providing the required intermodal LNP to the
235 economic realities of any other carrier that is already providing intermodal
236 LNP;
- 237 • the Petition and the Petitioner’s prefiled testimony do not offer any facts
238 on whether or not their economic projections would cause undue
239 economic burdens; and,
- 240 • the Petition and the Petitioner’s prefiled testimony do not examine the
241 impact a suspension of the Petitioner’s obligation to provide intermodal
242 LNP will have on wireless carriers, or more specifically on current or
243 potential wireless “users of telecommunications services generally.”

244 The FCC has determined that where such petitions are filed, “State commissions
245 will need to decide on a case-by-case basis whether such a showing has been made.”¹⁵

¹⁴ 47 C.F.R. § 51.405(d); *see also Local Competition First Report and Order*, ¶1262.

¹⁵ *Local Competition First Report and Order*, ¶1262.

246 Plain and simple, the Petitioner has failed to even provide evidence that a suspension of
247 intermodal LNP is justified.

248
249 **Q. IN THE ABSENCE OF THE IMPLEMENTATION DELAY ALREADY**
250 **GRANTED TO THE PETITIONER BY THIS COMMISSION, WHAT ARE THE**
251 **PREVAILING GUIDELINES FOR IMPLEMENTATION OF INTERMODAL**
252 **LNP AND HOW DO THEY RELATE TO THE PETITIONER'S SITUATION?**

253 A. From the Petitioner's testimony and exhibits, it is apparent that only software upgrades
254 and table translations are required to the Petitioner's switches to make them intermodal
255 LNP capable. LNP requirements were established for all local exchange carriers in
256 Section 251(b)(3) of the Telecom Act in 1996.¹⁶

257 On November 10, 2003, the FCC ruled:

258 Therefore for wireline carriers operating in areas outside of the 100
259 largest MSAs, we hereby waive, until May 24, 2004, the
260 requirement that these carriers port numbers to wireless carriers
261 that do not have a point of interconnection or numbering resources
262 in the rate center where the customer's wireline number is
263 provisioned."¹⁷

264 There is nothing vague or indefinite about the intermodal LNP obligations
265 imposed on the Petitioner. This eventuality has been foreseeable for the eight years since
266 the Telecom Act was passed in February 1996. Verizon Wireless' intent to port numbers
267 from the Petitioner has been known by the Petitioner since October 22 2003, more than 8

¹⁶ 47 U.S.C. § 251(b)(3).

¹⁷ Intermodal Porting Order, ¶ 29.

268 months ago. The FCC released its *Intermodal Porting Order* 8 months ago. With all this
269 advance public notice the Petitioner should have been be prepared to implement
270 intermodal LNP on May 24, 2004.

271 The opportunity for a carrier to “game the system” to delay performance
272 obligations should not be rewarded. Clearly, the Petitioner has had sufficient time to
273 meet its obligations.

274

275 **Q. SHOULD THE FACT THAT MANY SIMILARLY SITUATED LECS ARE NOT**
276 **SEEKING A DELAY OR SUSPENSION OF INTERMODAL LNP**
277 **IMPLEMENTATION MERIT CONSIDERATION IN THIS PETITION?**

278 A. Yes. The decision by many other independent local exchange carriers to prepare for
279 implementation rather than seek a delay or suspension is clear evidence that the
280 implementation of number portability by May 24, 2004 was achievable. Such Illinois
281 carriers as Citizens Telephone Company, Frontier Communications, Inc., and Illinois
282 Consolidated Telephone Company and Gallatin River Telephone Company are were LNP
283 compatible in some or all of their switches by May 24, 2004 and Geneseo Telephone
284 Company marked their switches as portable in LERG on June 18, 2004.

285

286 V **THERE IS NO UNDUE ECONOMIC BURDEN ON THE PETITIONER IN**
287 **IMPLEMENTING THE REQUIRED INTERMODAL LNP**

288 Q. **HAVE YOU HAD A CHANCE TO REVIEW THE COST STUDIES PRESENTED**
289 **BY THE PETITIONER’S WITNESSES?**

290 A. Yes I have. While, I am not an accountant, I am prepared to talk on the policy issues
291 presented within the cost studies.

292

293 Q. **WHAT IS THE STANDARD FOR ESTABLISHING AN “UNDUE ECONOMIC**
294 **BURDEN”?**

295 A. As I previously stated, Section 251(f)(2) of the Telecommunications Act of 1996 permits
296 the Commission to suspend a local exchange carrier’s intermodal LNP obligation if such
297 action is “necessary to avoid imposing a requirement that is unduly economically
298 burdensome.”¹⁸ In a similar situation, this Commission has stated that:

299 “In determining whether the requested waiver is necessary to avoid
300 imposing a requirement that is unduly economically burdensome,
301 the factors which may be considered by the Commission include,
302 but are not limited to, the following:

303 1) the ability of the ILEC to attract capital on its Illinois
304 jurisdictional investment or to raise capital on reasonable
305 terms;

306 2) the impact on the ILEC's ability to compete in Illinois
307 telecommunications markets;

¹⁸ 47 U.S.C. § 251(f)(2)(A)(ii).

308 3) the impact on the ILEC's ability to innovate.”¹⁹

309 The facts contained in the Petitioner’s testimony do not address these standards.

310

311 **Q. WHAT ARE THE BENEFITS OF LNP IMPLEMENTATION?**

312 A. As the FCC has found, there are many benefits to LNP capability. The FCC found an
313 overwhelming public interest benefit in requiring all wireless and wireline carriers to
314 offer LNP. LNP fosters competition, and makes it easier for customers to change carriers
315 if they find better service or value. There is a significant indirect benefit to the public:
316 number efficiency and conservation. Once a carrier is LNP capable it can participate in
317 thousand-block number pooling (“TBNP”). The Commission can extend the life of XX
318 NPA by implementing TBNP throughout the state where it does not exist today or by
319 increasing the number of carriers participating in pooling. Additional conservation
320 measures that the FCC may require in the future (such as individual telephone number
321 pooling “ITN” and unassigned number porting “UNP”) build on the same technological
322 platform as LNP and TBNP. With that in mind, moving carriers to the related
323 capabilities of LNP and TBNP should be a high priority for this Commission.

324

325 **Q. WILL A DELAY IN INTERMODAL LNP SAVE ANY LNP INVESTMENTS?**

326 A. No. The investments required by the Petitioner will not be reduced by delaying its
327 obligation to implement intermodal LNP—but rather just postponed. The risk for the

¹⁹ 83 Ill. Adm. Code 733.105.

328 Petitioner is no more than the investment risk made by any other carrier who has
329 implemented LNP. A delay instead serves to deny customers the advantage of the
330 competitive opportunities that will result from LNP and those competitive carriers that
331 have made LNP investments the opportunity to leverage that investment in Petitioner's
332 serving areas.

333

334 **Q. HAS VERIZON WIRELESS MADE THE INVESTMENTS NECESSARY TO**
335 **PROVIDE LNP IN ILLINOIS?**

336 A. Yes. We have upgraded our network, implemented new processes, systems, and hired
337 supporting resources to implement intermodal LNP in Illinois and throughout the nation.
338 We believe it is unfair that carriers that are similarly obligated, would be exempted from
339 their obligations and thereby limit our ability to recoup the intermodal LNP investments
340 we have made by restricting our opportunity to offer intermodal LNP to the Petitioner's
341 customers.

342

343 **Q. HOW DO YOU BELIEVE THIS COMMISSION SHOULD VIEW THE FACT**
344 **THAT THE PETITIONER APPARENTLY HAS NOT PREPARED FOR**
345 **INTERMODAL LNP?**

346 A. The fact that the Petitioner has not prepared its network for the implementation of
347 competition through intermodal LNP and, apparently, has not budgeted for intermodal
348 LNP implementation in 2004 (even though it received bona fide requests for

349 implementation in 2003) should not be used as a basis for granting any delay or
350 suspension of number portability obligations. The Petitioner has not demonstrated good-
351 faith efforts to comply with the LNP requirements.

352

353 **Q. WHAT STANCE HAS THE FCC TAKEN WITH RESPECT TO THE**
354 **PETITIONER'S POSITION?**

355 A. The FCC has rejected every request for suspension or waiver of the May 24, 2004 LNP
356 deadline. In denying North Eastern Pennsylvania's waiver request for an extension of the
357 May 24, 2004 implementation deadline, the FCC concluded that extending the porting
358 deadline in order to accommodate Petitioners' switch delivery and deployment schedule
359 and to provide additional time to resolve service feature issues was not warranted, as
360 Petitioners have failed to present extraordinary circumstances beyond its control.²⁰

361 The FCC also denied requests from wireless carriers Yorkville Telephone
362 Cooperative and Yorkville Communications; TMP Corp. and TMP Jacksonville, LLC;
363 and Choice Wireless, LC which sought an extension due to delays in switch upgrades

²⁰ See, *Northeastern Pennsylvania Order*, CC Docket No. 95-116, DA 04-1312, May 13, 2004, ("NEP Order") ¶ 10 ("NEP has known since 1996 that it would need to support LNP within six months of a request from a competing carrier). As further evidence of how seriously the FCC is taking the timeliness of suspension petitions, see the FCC's Upper Peninsula Telephone decision, summarily rejecting a petition filed less than 60-days before the implementation deadline. *In the Matter of Telephone Number Portability; Petition of Upper Peninsula Telephone Company for Extension of Time to Implement Local Number Portability*, CC Docket No. 95-116, DA 04-1456, May 24, 2004.

364 from their vendors,²¹ on the grounds that Petitioners failed to demonstrate special
365 circumstances that would warrant an extension of the deadline, given the public interest
366 in porting. The FCC held the carriers accountable for only recently beginning efforts to
367 prepare for porting.²²

368 The FCC recently entered into a consent decree with CenturyTel, a rural
369 telephone company under the Federal Telecommunications Act, under which CenturyTel
370 had to pay \$100,000 for failing to upgrade switches and properly route calls to ported
371 numbers. CenturyTel agreed to upgrade all of its switches to be fully LNP compatible
372 immediately. No technical or economic burden prevented CenturyTel's immediate
373 compliance.²³

374 The FCC has also taken a hard-line against late-filed petitions for waiver.
375 Metamora did not file its Petition until April 30, 2004, only 25 days before they would
376 have been required to provide intermodal LNP in the absence of this Commission's
377 interim suspension. The FCC specifically rejected a number of waiver requests that had
378 been filed so close to the LNP deadline, noting:

379 Section 52.31(d) of the [FCC's] rules requires requests for
380 extension of the LNP implementation deadline to be filed sixty
381 days before the deadline. Under the [FCC's] LNP rules, petitioners

²¹ See, *In the Matter of Telephone Number Portability, Petition of Yorkville Telephone Cooperative et al.*, Order, CC Docket 95-116, DA 04-1455 (FCC, May 24, 2004) ("*Yorkville et al. Order*").

²² *Yorkville et al. Order*, ¶ 8.

²³ *In the Matter of CenturyTel, Inc. et al.*, Order and Consent Decree, FCC File No. EB-04-IH-0012, DA 04-2065, July 12, 2004.

382 were required to support local number portability by May 24,
383 2004. Petitioners' requests for extension were filed between April
384 2, 2004, and May 21, 2004, less than sixty days in advance of the
385 implementation deadline. Accordingly, we find that petitioners
386 have failed to file their requests for waiver in a timely manner.²⁴

387

388 **Q. HAVE OTHER STATES REJECTED OR LIMITED RURAL LEC REQUESTS**
389 **FOR SUSPENSION UNDER SECTION 251F?**

390 A. Yes. State commissions also have determined, pursuant to Section 251(f)(2), to hold
391 petitioning LECs to their porting obligations. On May 18, 2004, the Indiana Utility
392 Regulatory Commission rejected consolidated petitions for suspension of wireline-to-
393 wireless portability.²⁵ In that Order, the Indiana Commission rejected various economic
394 and technical arguments presented by the LECs. As the Indiana Commission noted,

395 The FCC foresaw that the implementation of LNP would produce
396 problems, and to that end specifically directed carriers to examine
397 the leasing of LNP capability from neighboring LNP-capable
398 LECs, should they choose not to upgrade their own network.²⁶

399 The Michigan Public Service Commission denied similar requests from Michigan
400 "two percent" carriers, finding,

²⁴ *In the Matter of Telephone Number Portability, Petition of Leaco Rural Telephone Cooperative, Inc., et al.*, Order, CC Docket No. 95-116, DA 04-1684, June 10, 2004, ¶2; *See also, In the Matter of Telephone Number Portability; Petition of Upper Peninsula Telephone Company*, Order, CC Docket No. 95-116, DA 04-1456, May 24, 2004, ¶1.

²⁵ *See, In the Matter of the Petition of Citizens Telephone, et al.*, Cause No. 42529 et al. (Ind. URC, May 18, 2004) (hereafter "*Indiana WLNP Order*")

²⁶ *Indiana WLNP Order* at 22.

401 [i]ndeed, Petitioners have been on notice since 1996 to prepare for
402 implementation of LNP and replacement of new switches should
403 have been completed prior to the implementation date.

404 Therefore, the Commission cannot find that it is consistent with the
405 public interest, convenience, and necessity to temporarily suspend
406 [the LECs] LNP obligations beyond November 24, 2003 or May
407 24, 2004, if they qualify for the FCC's limited waiver. Any
408 deferment of the FCC's number portability requirements beyond
409 that time would be anti-competitive and anti-consumer.²⁷

410 The New York Public Service Commission also denied similar petitions, finding
411 that

412 number portability has consistently and repeatedly been found to
413 be in the public interest at both the state and federal levels. In our
414 view, Petitioners' lacked foresight in not planning for its eventual
415 implementation long before this time.²⁸

416 The FCC, New York, Michigan, and Indiana orders consistently found the strong
417 public interest in favor of portability and the extraordinary circumstances required to
418 overcome that public interest. Arguments like those raised by Metamora — i.e., that the
419 cost of software upgrades is unwarranted — have been rejected. Similarly situated LECs
420 in other states are now complying with the FCC's LNP mandate – which is evidence in
421 and of itself that intermodal LNP is both technically and economically feasible.

422

²⁷ *In the Matter of the Application of Waldron and Ogden Telephone Companies*, MPSC Case Nos. U-13956 & U-13958, Opinion and Order, p. 4 (Feb. 12, 2004) (denying stay where LECs filed on November 21 and November 24, 2003) (“Michigan WLNP Order”).

²⁸ *Petition of Multiple Communications Companies for a Suspension of Wireline-to-Wireline Number Portability Obligations*, NY PSC Case No. 03-C-1508, Order Denying Petition, Apr. 19, 2004, p. 16.

423 VI **THERE IS DEMONSTRATED DEMAND FOR INTERMODAL LNP IN**
424 **METAMORA’S SERVICE TERRITORY.**

425 Q. MR. HENDRICKS ARGUES THAT THERE MAY BE “THERE MAY BE NO
426 DEMAND FOR”²⁹ INTERMODAL LNP. DO YOU AGREE WITH THAT
427 PROJECTION?

428 A. Absolutely not. Mr. Hendricks bases his assessment of demand on the company’s
429 perception, despite his admission that the Petitioner “has not undertaken any official
430 inquiry or survey from its customers.”³⁰ In fact, there has been demonstrated demand for
431 the service. In its testimony, Mr. Hendricks points to at least one customer who has
432 asked Metamora about intermodal LNP.³¹ Moreover demand will grow as LNP becomes
433 widely available in Illinois and customers see the benefits of the service. Additionally
434 once barriers to porting are removed, including the interim suspension now in effect,
435 wireless carriers, such as Verizon Wireless, will attempt to win customers and compete in
436 the marketplace with advertisements and targeted mailings.

437

²⁹ Direct Testimony of Jason Hendricks on behalf of Metamora Telephone Company, ICC Docket No. 04-0366, p. 10.

³⁰ *Id.* at 17-18.

³¹ *Id.* at 17.

438 **VII CONCLUSION**

439 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

440 A. The Commission should reject the Petitioner's arguments to significantly postpone the
441 implementation of LNP, deny the Petition, and establish an expedited date by which the
442 Petitioner should implement intermodal LNP.

443

444 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

445 A. Yes, it does.