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August 19, 2005

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

**Re: Initial Comments of John Staurulakis, Inc.
Public Notice Re Initial Regulatory Flexibility Analysis in Telephone
Number Portability Proceeding, CC Docket No. 95-116**

Dear Ms. Dortch:

John Staurulakis, Inc. (“JSI”) hereby responds to the Federal Communications Commission’s Public Notice seeking comment on whether to modify intermodal porting rules with respect to their application to small entities.¹ Subsequent to the release of the Public Notice, JSI representatives met with Commission staff in *ex parte* meetings regarding this matter.² In these meetings, JSI demonstrated that the intermodal porting rules significantly impact rural local exchange carriers (“LECs”) by requiring them to port numbers to a wireless carrier when the wireless carrier does not have a point of interconnection (“POI”) in the wireline carrier’s rate center. JSI urged the Commission to declare that wireless carriers are operationally and financially responsible for the transport and termination of traffic in situations where the wireless carriers do not have POIs within the rural LEC’s service area. Attached please find a copy of one of the notices summarizing the *ex parte* meetings.

Respectfully submitted,

/s/ John Kuykendall

John Kuykendall
Director – Regulatory Affairs

Attachment

¹ See Federal Communications Commission Seeks Comment on Initial Regulatory Flexibility Analysis in Telephone Number Portability Proceeding, CC Docket No. 95-116, Public Notice, FCC 05-87 (rel. April 22, 2005) (“Public Notice”).

² See, e.g., Letter from John Kuykendall, Director – Regulatory Affairs for JSI to Marlene H. Dortch, Secretary, FCC (May 2, 2005).



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May 2, 2005

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

**Re: CC Docket Nos. 95-116 and 01-92
Notice of *Ex Parte* Presentation**

Dear Ms. Dortch:

On April 29, 2005, Azita Sparano and John Kuykendall of John Staurulakis, Inc. (“JSI”) met with Jessica Rosenworcel, Legal Advisor to Commissioner Michael Copps, on behalf of JSI’s rural local exchange carrier (“LEC”) clients. In the meeting, the JSI representatives discussed the attached presentation pertaining to the Commission’s Public Notice seeking comment on a decision by the United States Court of Appeals for the District of Columbia Circuit in which the court remanded the FCC’s Intermodal Local Number Portability Order to the Commission to prepare a final regulatory flexibility analysis.¹ A copy of the presentation is attached.

In its presentation, the JSI representatives discussed the requirements of the Regulatory Flexibility Act (“RFA”) and whether any of the rules adopted in its Intermodal Local Number Portability Order should be modified with respect to their application to small entities in light of the requirements of the RFA. The representatives

¹ See *Federal Communications Commission Seeks Comment on Initial Regulatory Flexibility Analysis in Telephone Number Portability Proceeding*, CC Docket No. 95-116, Public Notice, FCC 05-87 (rel. April 22, 2005). The Public Notice seeks comment on *United States Telecom Association et. al. v FCC, Case No. 03-1414 (DC Cir. March 11, 2005)*. The FCC’s decision remanded by the court was *Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, CC Docket No. 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 23, 697 (2003) (“Intermodal Local Number Portability Order”).

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then demonstrated that rural LECs, which meet the qualifications of “small entities” under the RFA, have been significantly impacted by the Commission’s decision in its Intermodal Local Number Portability Order in which it required a rural LEC to port numbers to a wireless carrier when the wireless carrier does not have a point of interconnection (“POI”) in the wireline carrier’s rate center. In these situations, this requirement has resulted in burdening rural LECs with the financial responsibility of routing calls to a ported number to a POI outside the rural LEC’s service area. To reduce the economic impact that this requirement has placed on rural LECs, the representatives urged the Commission to declare that wireless carriers are operationally and financially responsible for the transport and termination of traffic in situations where the wireless carriers do not have POIs within the rural LEC’s service area.

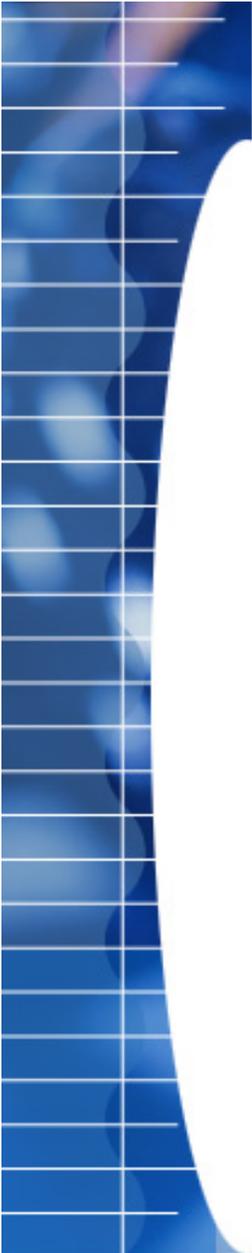
Respectfully submitted,

/s/ John Kuykendall

John Kuykendall
Director – Regulatory Affairs

Attachment

cc: Jessica Rosenworcel



*United States Court of
Appeals, D.C. Circuit
Remand of Intermodal Local
Number Portability Order*

John Staurulakis, Inc.

April, 2005

D.C. Circuit Court Ruling

- Determined that the Commission had failed to prepare a Final Regulatory Flexibility Analysis (FRFA) regarding the impact of *Intermodal LNP Order* on small entities, e.g. rural LECs
- Directed the Commission to prepare the required Final RFA.

Rural LECs LNP Obligation

- Rural LECs outside the top 100 MSA had no obligation to implement local number portability prior to 2003
 - Commissions rules required a *bona fide* request for LNP implementation
 - Most rural LECs did not receive any request for porting until 2003
- Where wireline-to-wireline LNP was implemented, “Service Provider Portability” required competing carrier to have:
 - A point of interconnection within ILEC’s network
 - Numbering resources within the rate center
 - An interconnection agreement between the ILEC and competing carrier.

Intermodal LNP Requests

- In early 2003, wireless carriers sent blanket LNP requests to most rural LECs
 - Wireless carriers did not have a point of interconnection within the rate center or even within rural LEC's network
 - Wireless carriers did not have numbering resources or an interconnection agreement with the rural LEC.
- Rural LECs challenged wireless carriers' requests as *de facto* "location portability requests" which was not required under Commission rules.

Intermodal LNP Petition

- On Jan. 23, 2003, CTIA filed a petition requesting the Commission to declare:
 - Wireline carriers have an obligation to port numbers to requesting wireless carriers when the carriers have an overlapping coverage area
 - Wireless carriers do not have to have interconnection agreements or numbering resources in the rate center in order to port wireline telephone numbers
 - *Wireless carriers do not have to have a point of interconnection in the rate center.*

Intermodal LNP Order

- On November 10, 2003, the Commission issued its *Intermodal LNP Order* requiring rural LECs to implement LNP upon receipt of a request from wireless carriers with overlapping coverage area.
- Commission determined wireless carriers do not have to have interconnection agreements or numbering resources or even a POI within rural LECs service area in order to port.
- This decision forced rural LECs to port numbers to a point of interconnection outside LEC's serving area.
- Commission noted concerns raised related to out-of-service area POI, but did not address those concerns.

Impact of Out-of-Service Area POI

- In its Order, Commission quotes NECA & NTCA:
 - When wireless carriers establish a point of interconnection outside of a rural LEC's serving area, a disproportionate burden is placed on the rural LEC to transport originating calls to the interconnection point
 - Requiring wireline carriers to port telephone numbers to an out-of-service area POI could create an even bigger burden.

Public Notice

- Commission released a Public Notice on April 22, 2005
 - Seeking comments on Initial Regulatory Flexibility Analysis (IRFA) in Telephone Number Portability Proceedings
 - Stating that “specific Initial RFA comments will assist us in preparing a Final Regulatory Analysis in connection with the *INTERMODAL Order* and
 - In determining whether to modify the intermodal porting rules with respect to their application to small entities in light of the requirements of the RFA.”

RFA Considerations

- Wireless carriers generally assign a Location Routing number (LRN) associated with the LATA Tandem – a toll route from rural LEC
- LRN designates the routing point for a ported number
- This results in an out-of-service area POI.
- Imposing financial obligations on rural LECs for an out-of-service area POIs designated for a ported number increases the burden on rural LECs
- Under the existing rules, even RBOCs do not have an obligation to route calls to an out-of service area POI.

RFA Considerations

- Out-of-service area POI has a significant economic impact on rural LECs.
- JSI encourages the Commission to address transport cost associated with out-of-service area point of interconnection
- JSI also demonstrates that under the existing rules ILECs are not required to assume responsibility of routing calls to a ported number to a POI outside the ILECs service area.

RFA Considerations

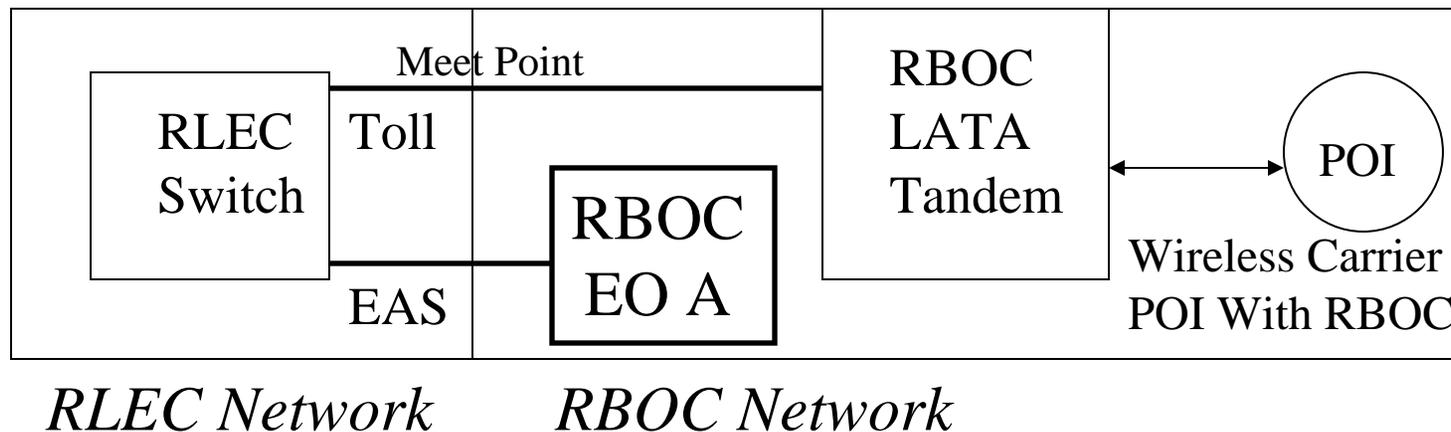
- Commission must fully consider impact on small entities, e.g., rural LECs.
- Commission should:
 - Require wireless carrier to establish a POI within rural LEC's service area, or
 - Declare that wireless carriers with out-of-service area POI are operationally and financially responsible for transport and termination of traffic outside of ILEC's service area.

RFA Considerations

- Financial impact on rural LECs that have EAS arrangement with RBOCs is even more burdensome :
 - More porting activities in RBOC service areas
 - Rural LEC has to query every call to a portable NPA/NXX, even if no number is ported
 - In order to complete the calls, rural LECs are forced to deliver calls to ported numbers to a POI outside of their network

RFA Considerations

- RBOC End Office A ports number to wireless carrier
- Wireless Carrier's POI is at the Tandem
- LATA Tandem companies are assessing transit charges
- BellSouth's transit traffic tariff: \$0.003 per minute, with an increase to \$0.006 as of Jan 1, 2006.



Conclusion

- The Act does not require rural LECs to route calls to an out-of-service area POI
 - Not even RBOCs
 - Definitely not rural LECs
- Commission should declare that LEC do not have any obligation to route calls to an out-of-service area POI.
- Carriers choosing to have an out-of-service area POI should be held responsible for the traffic outside of the rural LEC's network both operationally and financially.