

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the petition of)
CENTURYTEL OF MICHIGAN, INC., and)
CENTURYTEL MIDWEST-MICHIGAN, INC., for)
temporary suspension of wireline-to-wireless number)
portability obligations pursuant to § 251(f)(2) of the)
federal Telecommunications Act of 1996, as amended.)
_____)

Case No. U-13729

At the December 9, 2003 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chair
Hon. Robert B. Nelson, Commissioner
Hon. Laura Chappelle, Commissioner

OPINION AND ORDER

On November 20, 2003, CenturyTel of Michigan, Inc., and CenturyTel Midwest-Michigan, Inc., (collectively, CenturyTel) filed a petition requesting that the Commission temporarily suspend their wireline-to-wireless local number portability (LNP) obligations to Commercial Mobile Radio Service (CMRS or wireless) providers in five Michigan exchanges¹ until at least May 24, 2004, pursuant to Section 251(f)(2) of the federal Telecommunications Act of 1996 (FTA), 47 USC 251(f)(2).

Each of the five exchanges is geographically located in one of the top 100 Metropolitan Statistical Areas (MSAs) in the United States. Federal Communications Commission (FCC) rules require that telecommunications carriers in the top 100 MSAs provide LNP by November 24,

¹Goodrich, Hadley, Marlette, Newport, and Borculo.

2003, unless a state commission grants a suspension of the LNP requirements under Section 251(f)(2) of the FTA.

Section 251(f)(2) of the FTA provides:

Suspensions and modifications for rural carriers. A local exchange carrier with fewer than 2 percent of the Nation’s subscriber lines installed in the aggregate nationwide may petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c) of this section to telephone exchange service facilities specified in such petition. The State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification—

(A) is necessary—

- i. to avoid a significant adverse economic impact on users of telecommunications service 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.

47 USC 251(f)(2).

CenturyTel of Michigan, Inc., and CenturyTel Midwest-Michigan, Inc., each qualify as a “rural telephone company” as defined in 47 USC 153(37) and both are local exchange carriers with fewer than two percent of the nation’s subscriber lines installed in the aggregate nationwide. CenturyTel maintains that until very recently it was in full compliance with all directives of the FCC relating to number portability.

On November 10, 2003, however, the FCC released an order² indicating that (1) LNP obligations exist even when the wireless carrier does not have a physical point of interconnection, or does not have numbering resources in the rate center where number porting is being requested, (2) porting from a wireline carrier to a wireless carrier is required where the requesting wireless carrier’s coverage area overlaps the geographic location in which the customer’s wireline number

²See, *In Re Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, CC Docket No. 95-116 (November 10 order).

is provisioned, and (3) wireline carriers may not require wireless carriers to enter into interconnection agreements as a precondition to porting between carriers.

CenturyTel complains that as a result of the November 10 order, it is confused and its LNP obligations are unclear. CenturyTel proposes that portability may not be technically feasible because of issues relating to the routing of traffic. Further, CenturyTel maintains, the FCC did not define “point of connection or numbering resources in the rate center,” which were referenced in the order. Further, CenturyTel is concerned that the porting may require transport of wireline-originated calls to a point of connection with a wireless carrier outside the telephone company’s exchange boundaries. This involves more than number portability, CenturyTel concludes, but encompasses location portability, as well.

CenturyTel points out that LNP is technically complicated and involves transporting the associated call, in addition to the number. CenturyTel does not know how it can accomplish this without the caller incurring toll charges and CenturyTel incurring potentially high termination costs. In many cases, CenturyTel maintains, it does not provide local exchange services beyond its own network and has no interconnection arrangement or obligation for the establishment of an interconnection point with other carriers at points beyond its network.³ CenturyTel further contends that the FCC has failed to account for the technical and operational issues that arise (in the absence of interconnection arrangements between carriers) for continued customer and E911 service.

Specifically, CenturyTel maintains that it has received portability requests, which have failed to specify, or incorrectly specified, the discrete geographical area or switch information or the

³See, letter dated November 10, 2003, from Vicki Norris, CenturyTel, to Orjiakor Isiogu, Director of Telecommunications Division at the Michigan Public Service Commission. CenturyTel wrote, “We understand that no interconnection agreement is needed.” A copy of this letter is contained in the docket of this proceeding.

requests were too general to satisfy FCC requirements.⁴ Additionally, CenturyTel contends that other portability requests seek to obligate it outside the boundaries of the original rate center or were made by telecommunications carriers in areas outside its service territory.

CenturyTel is also concerned that the ported number will continue to be rated in the same fashion. CenturyTel contends that where a wireless carrier has not established an interconnection agreement for the establishment of an interconnection point with CenturyTel, it has no facilities or arrangements in place to direct calls to ported numbers. In these cases, the only way that calls can be completed will be to direct the calls to interexchange carriers (IXCs), which, in turn, will provide interexchange services, carry the calls to the distant interconnection point for completion, and impose a long distance charge. Additionally, CenturyTel will incur recurring expenses with each query or “dip” of the LNP database, including translation support efforts, back office implications concerning billing and plant records, LNP dip contract, and various expenses resulting from the receipt and handling of default routed traffic.

CenturyTel further argues that suspending CenturyTel’s LNP obligations would serve the public interest, convenience, and necessity. CenturyTel opines that by granting the temporary suspension, the Commission would avoid or diminish the potential waste of resources until the confusion resulting from LNP is eliminated.

CenturyTel also claims that the suspension would avoid a significant adverse economic impact on end-users generally. CenturyTel proposes that the costs of implementing intermodal number portability are significant for hardware and software costs to achieve porting capability, ongoing

⁴See, letter from Fran Runkel, CenturyTel, to Fawn Romig, Manager of Industry Compliance and Operational Network Support at Sprint PCS (Sprint), “CenturyTel believes that current regulations establish that legitimate bona fide requests may only be sent by companies that have interconnection agreements that permit number porting.” A copy of this letter was attached to the letter described in footnote 3 and is also contained in the docket.

data and administration costs, as well as those costs associated with establishing the proper arrangements with the affected carriers. Initial and ongoing costs incurred to satisfy the request of CMRS providers are ultimately paid by CenturyTel customers, with no reciprocal benefit from wireline-to-wireless number portability. CenturyTel argues that it has a limited customer base over which to spread its costs.

The Commission finds that the issues raised by CenturyTel's petition are issues within the sole jurisdiction of the FCC. Interestingly, the FCC declined to grant CenturyTel of Colorado, Inc.'s request for a stay of its LNP requirements pending judicial review.⁵ The Commission's sole responsibility in this docket, however, is to determine whether to approve a suspension or modification of FCC rules, based upon an alleged adverse economic impact or technical infeasibility if the suspension or modification would be consistent with the public interest, convenience, or necessity.

The Commission is not persuaded that it should suspend CenturyTel's LNP obligations. The docket file contains Sprint's LNP request, which was submitted to the Staff following a meeting with Vicki Norris, CenturyTel, and the Telecommunications Association of Michigan on November 7, 2003. An examination of that request reveals that it correctly identifies the geographical area, gives accurate switch information, and is specific enough to satisfy FCC requirements. Additionally, the FCC's November 10 order appears to rebut CenturyTel's representation that numbers cannot be ported even beyond the boundaries of the original rate center. Historically, even prior to the advent of wireline-to-wireless LNP, wireless calls have routinely been routed outside of local exchanges. Finally, the Staff points out that Sprint's LNP

⁵See, *In the Matter of Telephone Number Portability, United States Telecom Association and CenturyTel of Colorado, Inc., Joint Petition for Stay Pending Judicial Review, CC Docket 95-116 (FCC 03-298), November 20, 2003.*

request was submitted to CenturyTel on May 16, 2003, with a request for LNP in 16 exchanges in Michigan, which gave CenturyTel over 6 months to implement LNP by the November 24, 2003 deadline.

Further, CenturyTel has not shown that it is technically infeasible for it to meet its portability obligations. Indeed, CenturyTel has indicated only that it “may not be technically feasible” but it has not indicated why it is technically infeasible to do so. To the contrary, CenturyTel has outlined how portability requirements could be effectuated.

Finally, CenturyTel has not advanced a specific cost analysis beyond only a vague reference to the speculative “potential waste of resources.” Nor has CenturyTel shown a significant adverse impact on users of telecommunications service generally or that the portability requirements are unduly economically burdensome, as required by Section 251(f)(2) of the FTA. CenturyTel has not demonstrated that it will incur any costs that are different from, or more burdensome than, the costs of similarly situated wireless carriers or that the costs to provide LNP will be any different on May 24, 2004 than they are today. Indeed, even rural telephone companies must implement and bear the costs of portability if they receive a request to do so. The Commission is unconvinced that the burdens will disproportionately affect CenturyTel as compared with other carriers. CenturyTel has had sufficient notice and time to plan for implementation of portability⁶ and has been on notice since 1996 to prepare for implementation of LNP.

The Commission, therefore, cannot find that it is consistent with the public interest, convenience, and necessity to temporarily suspend CenturyTel’s LNP obligations. Any deferment

⁶Initially, CMRS providers were required to become LNP-capable by June 30, 1999. Subsequently, the FCC extended the deadline twice, and required that CMRS carriers operating in the top 100 MSAs provide LNP upon request by another carrier effective November 24, 2003. CMRS carriers operating outside the top MSAs must become LNP-capable upon request by May 24, 2004 or within six months of a request.

of the FCC's number portability requirements at this time would be anti-competitive and anti-consumer. The Commission concludes that an extension of the porting deadline until May 24, 2004 would not serve the public interest because it unnecessarily delays the LNP benefits to the public. A further delay of LNP obligations would unnecessarily harm competition and consumers, whereas portability will promote competition by allowing consumers to move to carriers that would better serve their needs without having to give up their telephone numbers. Thus, we find that the public interest would be served by LNP implementation consistent with FCC requirements.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.
- b. CenturyTel's petition to temporarily suspend its LNP requirements is not consistent with the public interest, convenience, and necessity, and should be denied.

THEREFORE, IT IS ORDERED that the petition of CenturyTel of Michigan, Inc., and CenturyTel Midwest-Michigan, Inc., for temporary suspension of wireline-to-wireless local number portability obligations pursuant to Section 251(f)(2) of the federal Telecommunications Act of 1996 is denied.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark
Chair

(S E A L)

/s/ Robert B. Nelson
Commissioner

/s/ Laura Chappelle
Commissioner

By its action of December 9, 2003.

/s/ Mary Jo Kunkle
Its Executive Secretary

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

Chair

Commissioner

Commissioner

By its action of December 9, 2003.

Its Executive Secretary

In the matter of the petition of)
CENTURYTEL OF MICHIGAN, INC., and)
CENTURYTEL MIDWEST-MICHIGAN, INC., for)
temporary suspension of wireline-to-wireless number)
portability obligations pursuant to § 251(f)(2) of the)
federal Telecommunications Act of 1996, as amended.)
_____)

Case No. U-13729

Suggested Minute:

“Adopt and issue order dated December 9, 2003 denying CenturyTel of Michigan, Inc., and CenturyTel Midwest-Michigan, Inc.’s petition to suspend wireline-to-wireless number portability obligations, as set forth in the order.”