
BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

In the Matter of the Petition of Valley
Telecommunications Cooperative
Association, Inc. for Suspension or
Modification of 47 USC Section 251(b)(2)
of the Communications Act of 1934 as
Amended

Docket No. TC08-022

DIRECT PRE-FILED TESTIMONY OF

DAN DAVIS

July 14, 2008

1 **Q. Please state your name, employer and business address.**

2 A. My name is Dan Davis. I am employed with Consortia Consulting (“Consortia”),
3 formerly known as TELECOM Consulting Resources Inc. My business address is
4 233 South 13th Street, Suite 1225, Lincoln, Nebraska, 68508.

5 **Q. On whose behalf are you testifying?**

6 A. I am testifying on behalf of Valley Telecommunications Cooperative Association
7 (“Petitioner”). The Petitioner provides local telephone exchange service and
8 exchange access service predominantly in the more rural parts of South Dakota.

9 **Q. What is your current position?**

10 A. I am a senior consultant at Consortia.

11 **Q. What are your duties and responsibilities at Consortia?**

12 A. I am responsible for consulting with clients regarding regulatory, financial and
13 interconnection issues. I testify on behalf of clients, predominately rural ILECs,
14 on the foregoing issues before state commissions and provide written comments
15 before the Federal Communications Commission (“FCC”) and state commissions
16 on regulatory and interconnection dockets.

17 **Q. What was your professional experience prior to your current position?**

18 A. I have worked in the telecommunications industry for 23 years, the last seven
19 years of which have been at Consortia. Prior to my position with Consortia, I
20 worked at ALLTEL (formerly known as Aliant Communications prior to merging
21 with ALLTEL) as the Regulatory/Financial manager of their Nebraska
22 competitive local exchange carrier (“CLEC”) operations. Prior to that position, I

1 worked for Aliant Communications in the areas of Regulatory Policy and
2 Separations and Access.

3 **Q. What is your educational background?**

4 A. I have a Master's degree in Finance and a Bachelor's degree in Business from the
5 University of Nebraska.

6 **Q. Have you previously testified before the South Dakota Public Utilities
7 Commission?**

8 A. Yes I have. In June of 2004, I testified on behalf of several rural incumbent local
9 exchange carriers ("ILECs") in which I presented data supporting each of the
10 rural ILEC's requests for suspension of Local Number Portability ("LNP")
11 requirements. In December 2005, I testified on behalf of rural ILECs in support
12 of the Joint Petition for Extension of the LNP suspension date. I have also
13 provided written testimony on behalf of rural ILECs in interconnection
14 proceedings that were resolved prior to hearing.

15 **Q. Will you please describe the purpose of your testimony?**

16 A. Yes. The purpose of my testimony is to support the Petitioner's Petition for
17 suspension of the number portability requirement in Section 251(b)(2) of the
18 Communications Act. Specifically, I will address what has become to be known
19 as the transport issue. I will address the cost requirement necessary to establish
20 transport outside of the Petitioner's Incumbent Local Exchange Carrier's network,
21 and given the lack of demand for wireline-to-wireless LNP, why it is in the public
22 interest to suspend the LNP requirement pending the resolution of the transport
23 issue.

1 **Q. What did the Commission previously find when it granted the Petitioner a**
2 **suspension of local number portability?**

3 A. The Commission found that a suspension was in the public interest because the
4 cost of LNP was significant, there was limited evidence of demand for LNP, and
5 there were a number of uncertainties in connection with LNP implementation in
6 Petitioner's service territory. The uncertainties which the Commission found
7 persuasive in granting a suspension included the appropriate technical solution for
8 transport of calls to ported numbers, the respective responsibilities and attendant
9 costs of providing transport for calls to ported numbers outside the local calling
10 area, and the routing and rating of calls to ported numbers. The Commission also
11 found that a suspension was necessary to avoid a significant adverse economic
12 impact on the users of Petitioner's telecommunications services generally given
13 the significant costs of implementing and providing LNP service, the absence of
14 customer requests for LNP, and the apparent low demand for the availability of
15 LNP.

16 **Q. Have issues related to transporting calls to numbers ported to wireless**
17 **carriers been resolved by the FCC?**

18 A. No, they have not. The FCC in neither its recent Report and Order on intermodal
19 LNP (FCC 07-188) nor the Final Regulatory Flexibility Analysis accompanying
20 its Order addressed issues surrounding the transport of wireline originated calls to
21 ported numbers. Despite expectations on the part of the Petitioner and many other
22 rural telephone companies that the issues would be addressed with the release of
23 any FRFA, the FCC has not yet taken action to resolve the disputes existing

1 between wireline and wireless carriers related to the routing, rating and transport
2 of local traffic exchanged between the carriers. The FCC did in its FRFA at least
3 give recognition that issues raised concerning transporting calls to ported numbers
4 are pending before the FCC in other proceedings “in the context of all numbers
5 (without distinguishing between ported or non-ported numbers).”¹ To this point,
6 however, the FCC has not provided for any resolutions of the wireline-wireless
7 transport issues that arise in the context of LNP implementation and as a result the
8 same transport issues previously raised before this Commission in the LNP
9 dockets are still present today.

10 **Q. Why should the Petitioner not be required to pay costs associated with**
11 **transporting local traffic beyond its local calling area to numbers that have**
12 **been ported to other carriers?**

13 A. The Petitioner is particularly concerned regarding the transport of wireline
14 originated calls to ported numbers because, to date, it has never been required as a
15 “local” exchange telecommunications company to deliver local traffic outside of
16 its local calling areas or rural service area and to pay for the costs of such
17 delivery. While the local wireline originated traffic destined to ported numbers
18 being used by wireless carriers could initially be limited in scope, Petitioner is
19 generally concerned with the precedent that may be set with respect to the routing
20 of local traffic outside of its local calling areas or even outside of its network.

21 Requiring the Petitioner to pay costs associated with routing local calls to areas
22 outside of its local calling area seems contrary to the intent of the Act. The 1996
23 amendment to the Telecommunications Act opened ILECs' markets to

¹ FCC 07-188, par. 4.

1 competition. Given a competitor is going to compete with the ILEC for the
2 ILEC's subscribers, it would make no sense to compete for the ILEC's subscribers
3 in the ILEC's local calling area, but then require the ILEC to route local calls and
4 to pay costs of transporting local calls to a location removed from the location in
5 which the carriers are competing. Yet this is precisely what the competitors, the
6 wireless carriers, are proposing. Such proposals would require the Petitioner to
7 incur the cost of facilities to locations in Sioux Falls or some other location even
8 though the Petitioner has no intent to compete with the wireless carrier at those
9 locations.

10 **Q. Has the Petitioner estimated its annual cost to transport calls to ported**
11 **numbers?**

12 A. Yes. The annual cost of the facilities necessary to route calls to ported numbers
13 are shown in Exhibit 1. The facilities costs were calculated assuming one DS1 to
14 each host or stand-alone end office switch. The rates were based upon FRRPA
15 EAS transport rates.

16 **Q. Has the Petitioner calculated other LNP costs in addition to transport?**

17 A. Yes. The costs associated with LNP software installation, switch translations,
18 LERG updates, training, customer notification, and query costs are shown on
19 Exhibit 2.

20 **Q. Do you believe there is and will be a lack of demand for wireline-to-wireless**
21 **number porting?**

22 A. Yes. I do. As an example, in Nebraska, 17 rural LECs were required to
23 implement wireline-to-wireless number porting on April 5, 2008. I am not aware

1 of a single wireline-to-wireless number port request to any of the rural LECs. I
2 would expect to see the same lack of demand from the Petitioner's subscribers for
3 number portability.

4 Given the additional transport costs, the current absence of customer requests for
5 intermodal LNP, and the lack of demand for intermodal LNP, the Commission
6 should find that a modification of the intermodal obligation, such that the
7 Petitioner is not required to pay for the cost of transporting ported calls beyond its
8 local calling areas, is necessary to avoid imposing a requirement that is unduly
9 economically burdensome on Petitioner and its customers.

10 **Q. Do you believe requiring the Petitioner to pay for transporting calls outside**
11 **of its local calling areas to ported numbers is in the public interest?**

12 A. No, I do not. The Commission previously found in its LNP dockets that at least
13 part of the determination of whether a suspension is consistent with the public
14 interest, convenience and necessity involves weighing the costs to the LEC and/or
15 its users against the benefits to be derived from the incurrence of such costs. The
16 Commission found that the benefits to consumers from LNP in the rural area
17 served by Petitioner had not been sufficiently demonstrated to outweigh the
18 burden that imposing LNP implementation would place on Petitioner and its rural
19 citizens who rely on Petitioner for essential, provider-of-last resort telephone
20 service.

21 For purposes of the public interest evaluation, the Commission also found
22 significant the level of uncertainty that existed in connection with aspects of LNP,
23 including the transport of ported calls, the porting interval, the demand for

1 number porting, particularly in areas where signal coverage is spotty or non-
2 existent and the extent to which the presence of LNP is a marginal factor in the
3 consumer's purchasing decision for alternative services such as wireless service.
4 Further, the Commission found that the public interest decision appropriately
5 considered the duty to provide and preserve universal service and Petitioner's
6 responsibility for providing essential telecommunications to all persons within its
7 service territory as the carrier of last resort.

8 **Q. What does the Petitioner request the Commission to do regarding intermodal**
9 **LNP implementation?**

10 A. Until the Commission rules on which carrier is responsible for the costs
11 associated with routing calls outside of the Petitioner's local calling area to
12 numbers that have been ported, the Petitioner requests that the Commission
13 continue to grant a suspension of any requirement to implement LNP.

14 **Q. What would be the timeframe for Petitioner to fully implement LNP?**

15 A. My estimate would be 90 - 120 days in order to install software and to install and
16 test the circuits to SDN.

17 **Q. Does this conclude your testimony?**

18 A. Yes, it does. I also reserve the opportunity to revise or modify this pre-filed direct
19 testimony at or before the hearing if I receive additional information pertaining to
20 the issues I presented herein.