

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  RURAL IOWA INDEPENDENT TELEPHONE ASSOCIATION AND IOWA TELECOMMUNICATIONS ASSOCIATION	DOCKET NO. SPU-04-3
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**ORDER DOCKETING FOR INVESTIGATION, REQUESTING SERVICE, AND  
SEEKING ADDITIONAL INFORMATION**

(Issued March 4, 2004)

On February 18, 2004, Rural Iowa Independent Telephone Association (RIITA) and Iowa Telecommunications Association (ITA) filed with the Utilities Board (Board) a "Joint Petition for Suspension of Intermodal Number Portability Requirements for Iowa Two Percent Carriers," pursuant to 47 U.S.C. § 251(f)(2) and Iowa Code § 476.1 (2003), requesting that the Board suspend or modify the federal requirements relating to intermodal number portability for all Iowa local exchange carriers (LECs) serving fewer than 2 percent of the nation's subscriber lines. The petition has been identified as Docket No. SPU-04-3.

Section 251(b)(2) of the Telecommunications Act of 1996 (1996 Act) provides that each local exchange carrier has the duty to provide number portability to the extent it is technically feasible. In addition, the Federal Communications Commission (FCC) issued an order on November 10, 2003, in which the FCC requires that

LECs must port numbers to wireless carriers where the requesting wireless carrier's 'coverage area' overlaps the geographic location of the rate center in which the customer's wire line is provisioned, provided that the porting

in carrier maintains the number's original rate center designation following the port.

See "Order," In re: Telephone Number Portability, CC Docket No. 95-116, ¶ 22

(2003). The deadline for complying with the FCC requirement depends upon the size of the market served. LECs serving the top 100 Metropolitan Statistical Areas (MSAs) were required to offer intermodal number portability in those markets by November 24, 2003, while all other LECs were given an additional six months, to May 24, 2004, to comply.

Under Federal law, the Board has jurisdiction to suspend or modify those requirements. Section 251(f)(2) of the 1996 Act states:

A local exchange carrier 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 of the application of a requirement or requirements of subsection (b) or (c) 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 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.

The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

Thus, the Board has jurisdiction of this petition pursuant to 47 U.S.C. § 251(f)(2) and must act upon the petition within 180 days of receipt of a complete petition.

The petitioners state that they are membership associations that represent the interests of incumbent local exchange carriers in Iowa and assert that to the best of their knowledge, all Iowa incumbent local exchange carriers that serve fewer than 2 percent of the nation's subscriber lines are members of RIITA, ITA, or both. The petitioners also state that they have been investigating the technical feasibility and costs associated with providing the intermodal number portability requirements ordered by the FCC. The petitioners assert that the FCC's intermodal number portability requirements are economically burdensome, will create an adverse economic impact on the users of telecommunications services, and may be technically unfeasible, and request that the Board suspend or modify these requirements as applied to petitioners.

The petitioners also request the Board issue an order staying (or suspending, to use the statutory term) these requirements for all members of RIITA and ITA pending the final action of this proceeding. Moreover, the petitioners request the Board not require individual carriers to file their specific factual circumstances, which may justify a suspension or modification of the FCC's requirements, pending a final resolution of the issues in this petition.

The petitioners did not indicate in their joint petition whether any of their members have received a bona fide request for intermodal number portability, nor did the petitioners indicate whether any requesting companies, specifically wireless carriers, were served with the joint petition. Therefore, the Board will direct the petitioners to serve a copy of their joint petition and a copy of this order on any company that has submitted a bona fide request to any of their members for intermodal number portability. Petitioners should file a certificate of service with the Board when they have completed service. Any person wishing to respond to the joint petition shall do so within ten days of the date of service. The Board will consider the petitioners' request for suspension of enforcement of the intermodal number portability requirement while the matter is pending after the deadline for responses has passed.

Section 251(f) of the 1996 Act states that a "[s]tate commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition." 47 U.S.C. § 251(f). Because it is unclear whether all appropriate parties have been served with this petition, the petition filed by RIITA and ITA on February 18, 2004, is considered incomplete. The 180-day time limit required by the Act will begin upon the Board's receipt of a complete certificate of service.

Finally, the joint petition does not specifically identify the local exchange carriers that are members of ITA and RIITA. Petitioners are directed to file an amendment to their joint petition identifying by name the local exchange carriers that are seeking a suspension or modification of the intermodal number portability

requirement. Petitioners should separately identify any of their members that do not seek a suspension or modification.

**IT IS THEREFORE ORDERED:**

1. The joint petition filed by Rural Iowa Independent Telephone Association and Iowa Telecommunications Association on February 18, 2004, is docketed for investigation as Docket No. SPU-04-3, pursuant to 47 U.S.C. § 251.

2. Rural Iowa Independent Telephone Association and Iowa Telecommunications Association are directed to serve a copy of their joint petition on all appropriate persons as described in this order and to file a Certificate of Service with the Board when service is perfected.

3. Rural Iowa Independent Telephone Association and Iowa Telecommunications Association are directed to file an amendment to their joint petition filed February 18, 2004, identifying by name the specific local exchange carriers that are, and are not, seeking a suspension or modification of the intermodal number portability requirements.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 4<sup>th</sup> day of March, 2004.