

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Telephone Number Portability

CC Docket No. 95-116

Petition of Leaco Rural Telephone Cooperative, Inc. for Limited Waiver and Extension of Its Porting Obligations

Petition of Cellular Phone of Kentucky, Inc. d/b/a Ramcell of Kentucky for Waiver of Section 52.31 of the Commission's Rules

Petition of Litchfield County Cellular, Inc. d/b/a/ Ramcell of Kentucky for Waiver of Section 52.31 of the Commission's Rules

Petition of North Carolina RSA 1 Partnership d/b/a Ramcell of North Carolina for Waiver of Section 52.31 of the Commission's Rules

Petition of Tracy Corporation II for Temporary Waiver of Section 52.31 of the Commission's Rules and Extension of Deadline

Petition of Duluth PCS, Inc. for Waiver of Section 52.31(a) of the Commission's Rules and Request for Short Extension of Time

Petition of Texas RSA 8 South Limited Partnership for Limited Waiver and Extension of Section 52.31 of the Commission's Rules

Petition of Litchfield County Cellular d/b/a Ramcell of Oregon for Waiver of Section 52.31 of the Commission's Rules

Petition of North Carolina RSA 3 Cellular Telephone Company dba Carolina West Wireless for Limited Waiver and Extension of Section 52.31 of the Commission's Rules

ORDER

Adopted: June 9, 2004

Released: June 10, 2004

By the Deputy Chief, Spectrum and Competition Policy Division:

## I. INTRODUCTION

1. In this order, we dismiss, as procedurally defective, petitions for extension of the local number portability (LNP) implementation deadline filed by Leaco Rural Telephone Cooperative, Inc., Cellular Phone of Kentucky, Inc. d/b/a Ramcell of Kentucky, Litchfield County Cellular, Inc. d/b/a Ramcell of Kentucky, North Carolina RSA 1 Partnership d/b/a Ramcell of North Carolina, Tracy Corporation II, Duluth PCS, Inc., Texas RSA 8 South Limited Partnership, Litchfield County Cellular d/b/a Ramcell of Oregon, and North Carolina RSA 3 Cellular Telephone Company dba Carolina West Wireless.<sup>1</sup>

2. Section 52.31(d) of the Commission's rules requires requests for extension of the LNP implementation deadline to be filed sixty days before the deadline.<sup>2</sup> Under the Commission's LNP rules, petitioners were required to support local number portability by May 24, 2004.<sup>3</sup> Petitioners' requests for extension were filed between April 2, 2004, and May 21, 2004, less than sixty days in advance of the implementation deadline. Accordingly, we find that petitioners have failed to file their requests for waiver in a timely manner.

3. With respect to certain petitioners'<sup>4</sup> requests that we waive the sixty-day filing requirement of section 52.31(d), we find that petitioners have failed to demonstrate that a waiver is warranted. The Commission may waive its rules, but a request for waiver must be supported by a showing of good cause.<sup>5</sup> Petitioners have failed to show cause for their untimely filings beyond statements that they only recently became aware that they would not be able to meet the May 24<sup>th</sup> deadline. Petitioners have been on notice of the number portability requirements since 1996.<sup>6</sup> In July, 2002, after previously extending the deadline twice, the Commission determined that CMRS carriers

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<sup>1</sup> See Telephone Number Portability, CC Docket No. 95-116, Petition for Limited Waiver and Extension from Leaco Rural Telephone Cooperative, Inc. (filed April 2, 2004) (Leaco Petition); Petition for Limited Waiver and Extension of Time from Cellular Phone of Kentucky, Inc. d/b/a Ramcell of Kentucky (filed April 30, 2004) (CPK Petition); Petition for Limited Waiver and Extension of Time from Litchfield County Cellular, Inc. d/b/a Ramcell of Kentucky (filed April 30, 2004) (Litchfield Petition); Petition for Limited Extension of Time from North Carolina RSA 1 Partnership d/b/a Ramcell of North Carolina (filed May 6, 2004) (North Carolina RSA 1 Petition); Request for Temporary Waiver of Section 52.31 of the Commission Rules and Extension of the May 24, 2004 Deadline from Tracy Corporation II (filed May 4, 2004) (Tracy Petition); Petition for Waiver of Section 52.31(a) of the Commission's Rules and Request for Short Extension of Time from Duluth PCS, Inc. (filed May 10, 2004) (Duluth Petition); Petition for Limited Waiver and Extension of Time to Port Numbers to Wireless Carriers from Texas RSA 8 South Limited Partnership (filed May 13, 2004) (Texas RSA 8 Petition); Petition for Waiver of Section 52.31 of the Commission's Rules from Litchfield County Cellular d/b/a Ramcell of Oregon (filed May 21, 2004) (Ramcell of Oregon Petition); and Petition for Limited Waiver and Extension of Section 52.31 of the Commission's Rules from North Carolina RSA 3 Cellular Telephone Company dba Carolina West Wireless (filed May 21, 2004) (Carolina West Wireless Petition).

<sup>2</sup> 47 C.F.R. §52.31(d).

<sup>3</sup> Telephone Number Portability, CC Docket No. 95-116, *First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 7236, 7314 (1997); Verizon Wireless Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation, WT Docket No. 01-184 and CC Docket No. 95-116, *Memorandum Opinion and Order*, 17 FCC Rcd at 14972, 14986 (2002 *Forbearance Order*).

<sup>4</sup> See Leaco Petition at 2; CPK Petition at 1; Litchfield Petition at 1; North Carolina RSA 1 Petition at 1; Duluth Petition at 1; and Ramcell of Oregon Petition at 1.

<sup>5</sup> 47 C.F.R. § 1.3; see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (*WAIT Radio*).

<sup>6</sup> Telephone Number Portability, CC Docket No. 95-116, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352 (1996).

serving the 100 largest MSAs would be required to begin providing LNP by November 24, 2003.<sup>7</sup> The Commission indicated that CMRS carriers outside the 100 largest MSAs would be required to begin providing LNP by May 24, 2004, or within six months after receiving a request to provide LNP from another carrier, whichever was later.<sup>8</sup> In light of this long period of notice, it is reasonable to expect that petitioners should have taken steps to complete their LNP preparations at an earlier time.

4. In addition, in view of the important consumer benefits of porting, we find that it is appropriate to require carriers to adhere to the sixty-day filing deadline. The Commission's number portability requirements are an important tool for promoting competition and bringing more choice to consumers. Accordingly, it is in the public interest that carriers implement porting as quickly as possible. Allowing petitioners to file untimely requests for waiver would slow the LNP implementation process and limit the choices available to consumers in the markets petitioners serve.

## II. ORDERING CLAUSE

5. Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 155(c), and the authority delegated pursuant to sections 0.131 and 0.331 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331, the petitions captioned above are DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Jeffrey Steinberg  
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Wireless Telecommunications Bureau

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<sup>7</sup> See *2002 Forbearance Order*, 17 FCC Rcd at 14982.

<sup>8</sup> *Id.* at 14986.