

Service Date: October 15, 2004

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF the Petition of)	UTILITY DIVISION
3 Rivers Telephone Cooperative, Inc.)	
For Suspension of the Federal Communications)	DOCKET NO. D2004.3.39
Commission Requirement to Implement Wireline/Wireless)	
Number Portability Pursuant to 47 U.S.C. § 251(f)(2))	ORDER NO. 6558h

ORDER
APPROVING STIPULATION
AND TERMS AND CONDITIONS OF IMPLEMENTATION
OF NUMBER PORTABILITY
3 RIVERS TELEPHONE COOPERATIVE, INC.

I. Background

1. On March 11, 3 Rivers Telephone Cooperative, Inc., (3 Rivers) through its representative Montana Telecommunications Association, pursuant to 47 U.S.C. § 251(f)(2), filed for a suspension of the requirements of 47 U.S.C. § 251(b)(2) to implement number portability to wireless carriers, as required by the Federal Communications Commission (FCC) in CC Docket No. 95-115, *In the Matter of Telephone Number Portability*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, Released November 10, 2003.

2. On April 6, 2004 the Commission granted 3 River's request, through MTA, for a temporary suspension of the number portability requirements.¹ On March 15, 2004 3 Rivers, through MTA, filed a petition for a long-term suspension of the number portability requirements, which was assigned PSC Docket No. D2004.3.39. That docket was consolidated with D2004.3.44, and D2004.3.44 was closed. The Commission entered a procedural schedule and set the matter for a hearing.

¹ Order No. 6553 in PSC Docket No. D2004.3.37, service date April 14, 2004.

3. Discovery took place, the parties filed pre-hearing motions, and on September 8, 2004, a hearing was held in this matter. All remaining parties to the docket appeared and were present at the hearing.² 3 Rivers and Western Wireless (Western) presented a stipulation to the Commission for approval. The Montana Consumer Counsel (MCC) approved and signed the stipulation.

4. At the hearing on September 8, 2004, the Commission took comments and heard the parties with respect to the Stipulation.

II. Findings of Fact and Commission Decision

5. The Commission's statutory authority to suspend the number portability obligations is contained at 47 U.S.C. § 251(f)(2), which reads in relevant part:

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) 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.

6. 47 U.S.C. § 251(b)(2) obligates local exchange carriers to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.

7. Prior to hearing in this matter, 3 Rivers and Western presented a Stipulation to the Commission for approval, pursuant to which 3 Rivers will implement the requirements of local number portability.

² CenturyTel of Montana initially appeared in this proceeding through the Montana Telecommunications Association, but was dismissed from the docket by separate order based on its representation that it is implementing the number portability requirements of 47 U.S.C. § 251(b)(2) and the FCC's Number Portability Order.

8. The Commission heard comments from all parties with regard to the Stipulation that was submitted for Commission approval at the hearing on September 8, 2004.

9. The Commission approves the terms and conditions contained in the Stipulation.

10. In approving the Stipulation, the Commission finds that the terms and conditions set forth in the Stipulation are the terms and conditions pursuant to which Lincoln is obligated to offer number porting pursuant to 47 U.S.C. § 251(b)(2) and 47 U.S.C. § 251(f)(2).

11. The Commission further finds that Western has represented to the Commission that Western has implemented wireless number portability, as required by the FCC, including its obligations to provide wireless to wireline porting pursuant to the terms set forth in Paragraph 22 of the FCC's Number Portability Order, CC Docket No. 95-116.

III. Order

THEREFORE, IT IS HEREBY ORDERED,

1. The Commission has jurisdiction over this matter pursuant to 47 U.S.C. § 251(f)(2) and § 69-3-834 MCA.

2. The Stipulation entered into between Western and 3 Rivers is attached hereto, and is approved in its entirety and incorporated in this Order as if fully set forth herein.

3. 3 Rivers' obligation to provide number portability to requesting carriers pursuant to 47 U.S.C. § 251(b)(2) is modified as authorized by 47 U.S.C. § 251(f)(2) consistent with the terms and conditions of the Stipulation and this Order.

4. This Order is a final decision as to 3 Rivers, and 3 Rivers is hereby dismissed from the docket and this docket is closed as to 3 Rivers.

Done and dated this 8th day of September, 2004 by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BOB ROWE, Chairman

THOMAS J. SCHNEIDER, Vice Chairman

MATT BRAINARD, Commissioner

GREG JERGESON, Commissioner

JAY STOVALL, Commissioner

ATTEST:

Judy Scheier
Assistant Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF THE PETITION OF)
3 RIVERS TELEPHONE COOPERATIVE, INC.)
FOR SUSPENSION OF THE FEDERAL)
COMMUNICATIONS COMMISSION)
REQUIREMENT TO IMPLEMENT)
WIRELINE/WIRELESS NUMBER PORTABILITY)
UNDER 47 U.S.C. §251(f)(2))

STIPULATION

Docket No. D2004.3.39

This stipulation is made and entered into by and between the following parties through their attorneys of record:

Petitioner: 3 Rivers Telephone Cooperative, Inc. (hereinafter "3 Rivers")
Darren Moser, General Manager

Intervenors: WWC Holding Company, Inc. (hereinafter "WWC")
Joseph P. Mazurek, Attorney for WWC
Crowley, Haughey, Hanson, Toole & Dietrich P.L.L.P.,

And

The Montana Consumer Counsel,
Mary Wright, Attorney

The above named parties present the following stipulation to the Commission and hereby request that the Commission adopt the stipulation for the purposes set forth herein. Wherefore, the parties hereby stipulate and agree as follows:

1. LNP Compliance. 3 Rivers shall be LNP capable by March 1, 2005, for all 3 Rivers customers. The Parties request that the Commission grant a suspension of Section 251(b)(2) to 3 Rivers until March 1, 2005.
2. Tandem Routing. The Parties agree to utilize a tandem routing solution for delivery of ported traffic. 3 Rivers will send intermodal LNP traffic from its tandems in Big Sky, Ennis and Fairfield to Qwest by using the Common or C Trunks. WWC will accept the traffic from Qwest.
3. Routing Calls to Ported Numbers. The Parties agree that 3 Rivers shall deliver calls which originate from 3 Rivers customers and are local calls as defined by 3 River's tariff to the NPA-NXX numbers ported to a WWC as local calls via routing to Qwest.
4. Transport and Transit Costs. WWC agrees to reimburse 3 Rivers for any transport and transit usage charges, recording charges, and any other charges assessed by Qwest, other carriers, or other entities to 3 Rivers for the transport and/or transit of

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local calls to numbers ported to WWC. Each Party agrees that it shall use its best efforts through active participation in an initiative to reach agreement with Qwest for traffic routed in this manner. WWC obligations to reimburse 3 Rivers for these transport and transit costs shall continue until the earlier of such time as a direct interconnection is established or until the FCC issues an Order assigning responsibility for costs associated with the transport of calls to ported numbers when that transport includes routing beyond a local exchange carrier service area. In the event of an FCC Order, the transport responsibility defined in the Order shall be adopted by the Parties.

5. Non-intervenors. 3 Rivers' obligations shall be the same with regard to all qualifying wireless carriers submitting bona fide requests for intermodal LNP.
6. Agreement. The Parties agree this stipulation is the result of the FCC requirement for Intermodal LNP. Any court action which renders the FCC's requirements invalid shall also render this stipulation void and the requirements herein invalid.
7. Submission to PSC. The parties agree to submit this stipulation to the Montana Public Service Commission for approval. This agreement becomes effective upon the issuance of an Order by the Commission that modifies 3 Rivers' LNP obligations as outlined above and specifically states that the obligations apply to all intermodal LNP between 3 Rivers and any qualifying wireless carriers (i.e., carriers that meet the Federal Communications Commission's criteria regarding the conditions on which wireless carriers can port numbers from wireline carriers) that submit a bona fide request to 3 Rivers for intermodal LNP.

AS 8. Language of PSC Order. The parties agree to submit the following language to the Commission as a proposed final order:

"On September ____, 2004, Petitioner, 3 Rivers Telephone Cooperative, Inc., ("3 Rivers"), and Intervenors, WWC Holding Company, Inc., ("WWC") and The Montana Consumer Counsel filed a Stipulation. The matter was accordingly scheduled for stipulated disposition at the Commission's regular meeting on September 8, 2004. The Commission thereupon voted to approve the Stipulation and enter a final decision in the docket incorporating its terms and closing the docket.

The Commission finds and concludes that it has jurisdiction to enter this order pursuant to 47 U.S.C. § 251(f)(2). It is therefore

ORDERED, that the Stipulation attached hereto is approved in its entirety and is incorporated in this Order as if fully set forth herein;

ORDERED, that 3 Rivers obligation to provide local number portability to requesting carriers pursuant to 47 U.S.C. §251(b)(2) is modified consistent with the terms and conditions of the Stipulation and this Order; and it is further

ORDERED, that this Order shall constitute the final decision in this matter and upon the effective date hereof, Docket No. 2003.3.39 shall be closed."

^a
~~g~~ Void if Modified. The parties agree that if any of the terms or conditions set forth in the Stipulation are proposed to be modified or changed by the Commission, including the language in the proposed order, and either party to the Stipulation does not agree, the Stipulation shall be void.

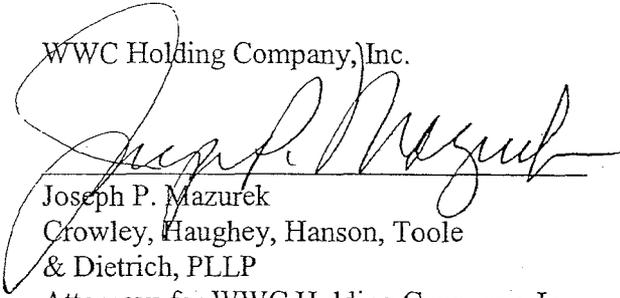
3 Rivers Telephone Cooperative, Inc.

Dated: _____

Darren Moser, General Manager
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Fairfield, MT 59436

WWC Holding Company, Inc.

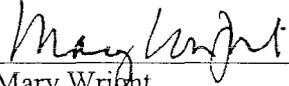
Dated: 9/7/04



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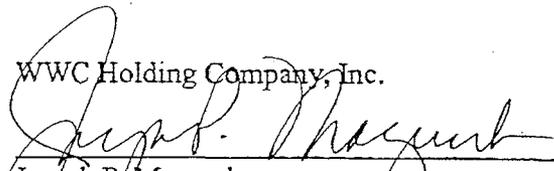
3 Rivers Telephone Cooperative, Inc.

Dated: 9/7/04



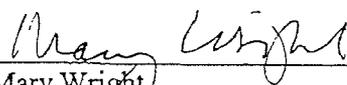
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Dated: 9/7/04

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