

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

In the Matter of

Petition Pursuant to Sections 201, 202 and 251  
of the Communications Act to Require  
Incumbent Local Exchange Carriers To Supply  
Geographically Portable Telephone Numbers

**PETITION**

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## SUMMARY/STATEMENT OF INTEREST

New Networks Institute ("NNI") was founded in 1992. Its mission is to explore, on a totally independent basis, the impact of the break-up of AT&T and the creation of the Regional Bells Operating Companies ("RBOCs") on telephone subscribers in general and on the deployment of new and advanced telecommunications networks. Since that time, the NNI has conducted extensive research on these topics. Titled "The Future of the Information Age," this seven-year analysis consists of over 1,900 pages in 14 volumes, with over 910 exhibits, two computer databases, and data from more than 2,000 consumer interviews, (conducted independently through Fairfield Research). A bibliography is available at <http://www.newnetworks.com/> We have recently updated this research in the form of a new book, , *The Unauthorized Biography of the Baby Bells & Info-Scandal*, published March 1999. NNI's research is independently funded from the sales of the reports books, and databases. No company, lobbying organization, trade association or political party had any input, either editorial or financial.

In this Petition, NNI requests that the Commission mandate that existing "number portability" requirements be expanded to include true *geographic* portability — that is, to allow a consumer who moves from one place to another to retain his or her existing telephone number — as opposed to the mere "service provider portability" requirement that exists today. This new capability is plainly technically feasible, and would provide substantial benefits and convenience to consumers at very low cost to the telephone industry.

The only real basis for opposition to this proposal is not technical, but economic. Incumbent local exchange carriers ("ILECs") have historically established a large number of small "local calling areas" or "exchange areas" for the administration of their networks. In the past there was harmony between the technological basis for the establishment of different exchanges — individual switches could only handle so many lines, so different switches handled different exchanges. Moreover, prior to the development of digital transmission technology and the rapidly falling costs of optical fiber transmission, the distance between different exchanges/switches was a material component of the cost of handling a call. All of that has changed as a technical and economic matter. But the ILECs still make billions of dollars collectively on "interexchange" calls that cost little, if anything, more than a call within a given exchange.

Allowing people who move within a carrier's service territory to keep their telephone number by means of number portability technology would indeed undercut traditional ILEC billing arrangements, in cases where the consumer moves to a new location that is not "local" to the original location. But this minor inconvenience to the ILECs is more than justified by the fact that consumers are paying hundreds of millions, if not billions of dollars for "number portability" arrangements that may someday benefit them when and if local competition becomes a reality for residential customers. Allowing customers to keep their telephone numbers when they make "local" moves, however, would give consumers some benefits *right now* for the high rates they are paying

We also argue that the charges for “portability” are “unfair and unreasonable”. The Telecommunications Act stipulates that “telecommunications carriers” should be responsible for this charge. Therefore, imposing fees on customers that may never use the service as currently outlined, is not “fair”. Also, the addition of new charges that clearly benefits the local phone companies through increased revenues, even though their profit margins for local service have reached new heights, is not “reasonable.”

This Commission has plenary authority over number portability issues under Section 251(b) of the Act. It clearly may order that the number portability database arrangements that have been established pursuant to federal law, and for which consumers are being assessed a federal charge, must be used for this purpose. To do so would likely require a re-examination of the scope of the term “location” as to which consumers are to be required to keep their existing telephone numbers.

In the same spirit of giving consumers current benefits from technologies that they are forced to fund by virtue of regulatory requirements, NNI also requests that the Commission implement a proceeding to require “Area Code Portability”, which would allow a customer to take their phone number with them when they move in the United States. For the Commission’s consideration, one way for accomplishing this would be to use a special dialing sequence, starting with the \* (star) key, to indicate a ported area code.

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**Introduction:**

Imagine Jerry Michalski's surprise when he moved just a few blocks from his home and couldn't keep his local phone number. Since he knew that he was paying an additional charge for "Phone Number Portability", he questioned whether he should ask his Bell phone company, Pac Bell/SBC, for a refund.

Or take the case of Bway.net, a DSL and dial up provider of Internet and web services. When they moved just a few blocks down Broadway, NYC, the phone company, Bell Atlantic, refused to allow them to transfer their phone numbers and so they had to pay hundreds of dollars a month in Call Forwarding and extra calls.

And let's not forget America's Area Code Nightmare. In many parts of the country, customers have had the older, well-worn area-code portion of their local phone numbers stripped from their lives. This not only causes havoc to the customer, especially when there is stationary to be redone, or business contacts, etc., to be notified, but also on those who have memorized the number after years of use.

It is a little known fact, outside the regulatory community, that virtually every telephone customer in the country has been hit with an FCC mandated additional charge, ranging from 23-50 cents per line, per month, to supposedly pay for number "portability" the ability to have a phone number be "portable", thus allowing a customer to keep their number if they switch to a competitor. Unfortunately, this "portability" charge does not allow a customer to take their phone number when they move.

America, in many ways has become a portable society. According to numerous reports, somewhere between 15-25% of the population changes locations each year. However, the phone numbering plan has remained in the 20<sup>th</sup> century and is still a static network. Area

codes are still based primarily on geography, and phone number assignments are almost at the street by street assignment.

In the age of “Digital Network Switches” which were mostly paid for by the phone customers, the movement of a phone number should be a given right of the customer. There is no longer a need for a phone number and a location to be tied to each other. One has only to look at the registration of the Internet domain names to realize that a name of a web site has nothing to do with the location of that site.

NNI presents a long term workable solution to these problems, that should have a lower impact than the current strategies. However, it requires regulatory oversight to be implemented.

The FCC’s current orders to date on phone number portability and the older issue of uses of the North American Numbering Plan (which governs how phone numbers are supplied) has been nothing more than stop gap measures.

NNI Proposal:

- In the case of **Local Number Portability**, NNI believes that the customer needs to be able to take their number with them. It should be a basic right, not a privilege.
- In the case of **Area Code Portability** we suggest that the FCC consider requiring full ten-digit (area code) Portability to all customers, since the area code does not have to be geographically attached to a customer’s home or office. Simply put, this would allow the customer to take their current phone number anywhere in the United States. This would include extending the current portability plan to include area codes.
- NNI also offers an alternative plan for Area Code Portability titled “\* **(Star) 100**”.

We also believe that the local phone companies should have been required to deliver these services as part of the massive amounts of money collected annually from customers to pay for network upgrades and therefore, the portability charge should never have been implemented. The Telecommunications Act, which established a portability fee, stated that the charge was to be paid by the telecommunications carriers.

And finally, customers we interviewed do not know that they have been assessed new fees. It certainly is one of the mystery fees on today’s phonebills. And when customers are told why they are paying this additional monies every month, for a service they may never use, they are not pleased.

## Discussion

### Local Phone Number Portability Today: “You can’t take it with you”.

The Telecommunications Act of 1996 specifically called for the ability of a customer to retain their own number if they were to use another competitive local service provider at their current location.<sup>1</sup>

“The 1996 Act requires that carriers ‘provide, to the extent technically feasible, number portability in accordance with the requirements prescribed by the Commission.’ Number portability is defined in the 1996 Act as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”

The reason for portability was to make sure that competitors would have an equal basis for competition. Obviously, if a customer had to lose their phone number or was assessed additional fees to keep their older number, this would be a major impediment for selecting a new competitor.

Unfortunately, this very narrow definition is NOT the common belief of why this charge is on the phonebill. Today, less than 1% of residential customers, and only 5% of business, use a competitor. So 99% of residential customers have been paying for a service they may never use.

But the real irony is that The Act also stated that this addition to the network should be paid for by all of the telecommunications companies, not customers.<sup>2</sup>

“...the costs of establishing . . . number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.”

However, after years of discussions, in July 1999, the FCC passed a law which allowed the phone companies to pass through the expenses to local phone customers.

“The FCC allows, but does not require, local telephone companies to pass certain costs of implementing and maintaining long-term number portability on to their customers.”<sup>3</sup>

And this money is additional revenues to the Bell companies and GTE. Bell Atlantic/New Jersey stated.<sup>4</sup>

“In addition, network access revenues included higher revenues received from customers for the recovery of local number portability (LNP) costs.

LNP allows customers to change local exchange carriers while maintaining their existing telephone numbers. In December 1998, the Federal Communications Commission (FCC) issued an order permitting us to recover costs incurred for LNP in the form of monthly end-user charges for a five-year period beginning in March 1999.”

In fact, from March 99 through December 1999, Bell Atlantic New Jersey received approximately \$1.3 million dollars of additional revenues a month. And that’s just for New Jersey.

“In 1999, network access revenues included approximately \$13 million received from customers for the recovery of local number portability (LNP) costs.”

Current charge: Like ever charge in telecommunications, each phone company has assessed its own fee---from 23 cents in NYC to 34 cents in California, or 55cents in Massachusetts (business line), per phoneline. And if the customer decides not to pay this fee, the Ameritech phonebill (4/00) states that you can be disconnected.

“Charges and associated taxes must be paid to avoid disconnection and /or restriction in of basic local service.”

The customer can expect to be paying this charge for five years. (The starting date for some companies was February, 1999)

“Local telephone companies may continue to assess this charge on customers' telephone bills for a period of five (5) years from the date the local telephone company first begins collecting the charge. At the end of the five-year period, the local telephone company must stop assessing the charge.”

To read more details about the portability charge, please see the FCC’s consumer information at: [http://www.fcc.gov/Bureaus/Common\\_Carrier/Factsheets/portable.html](http://www.fcc.gov/Bureaus/Common_Carrier/Factsheets/portable.html)

So, to put the current situation into perspective, the overwhelming majority of customers are paying for years, per line, for a service they may never use. Also, when someone moves, there is no law that requires the local phone companies to give a customer the ability to take their number when they move, whether they are using or not using a competitor.

### **The Argument For Portable Local Numbers.**

Everyone in America knows what a pain it is to have to move and lose your phone number. Yet each year millions of customers are required to change the phone numbers when they move. This disruption to phone calling can last years and effect millions of

others. Friends, relatives, sons and daughters, and old time acquaintances who remember the old phone numbers, to business associates, must constantly redial, since the older number has been part of their memory for a decade.

For businesses, there can be a major expense. When Bell Atlantic/New York couldn't move a local Internet Provider's service to a competitor for 10 months, the fees to have the calls forwarded from the old number to the new number was \$500-\$800 a month.<sup>5</sup>

“Bway.net, Inc. is a New York based ISP that moved offices on June 1, 1999 and attempted to change local telephone providers prior to the move in order to retain it's phone numbers (the incumbent, Bell Atlantic (BA), would not provide number portability to the new CO). Under duress we then ordered 9 lines from BA and had to pay \$500-\$800 per month for Call Forwarding to our hunt group (this includes the programming and the fact that each incoming call was charged the business rate to be forwarded). We attempted to get local service from MCI, which was also hampered by lack of cooperation by BA. Finally we were able to obtain the desired service at reasonable rates from Network Plus, but only after incurring additional expenses of \$500-\$800 for 10 months.”

Even if the customer is only blocks away, the Bell is not obligated to move the original customer phone number to the new location.

Therefore, we doubt that anyone reading this document would argue that local phone number portability should have been a basic right of a customer and not a privilege.

To add insult to injury, NNI also believes that the monies being collected are “unjust and unreasonable”, which goes against the basic tenets of the Telecom Act . In fact, the Act specifically assigned to the FCC responsibility to investigate and report any overcharges or unreasonable price increases:

“The Commission ... shall report to the Congress whether any such transactions... may result in any undue or unreasonable increase in charges or in the maintenance of undue or unreasonable charges for such service...”<sup>6</sup>

As we've shown in other New Networks Institute reports, the Bells' profits more than adequately could have paid for these basic network upgrades. For example, in a recently released report commissioned by NetAction,<sup>7</sup> we compared the Bells' profit margins with five icons of American business: McDonalds, the worlds largest restaurant chain; Nike, the largest footware supplier; Exxon/Mobil, the largest oil company, Disney, one of the largest entertainment companies; and Dow Jones, a major finance company.

The exhibit below compares Bell and GTE profit margins with that of the five identified above. Most businesses are happy if they achieve a 10-20% profit margin. The combined

average profit margin for the companies we looked at was only 16%. In contrast, the Bells' profit margin from all services was 42.9%, which is 167% higher than the average for the five businesses combined.

### **Bell Profit Margins Compared to Selected Major American Companies**

Business Group: McDonalds, Nike, Exxon/Mobil, Disney, Dow Jones	16.1%
Bells	42.9%
Bells Compared to Business Group	167%

*Source: 4<sup>th</sup> Quarter Year-End 1999 Results, from SEC filings.*

Therefore, we question whether this does not violate the intent of the Telecom Act because these charges are not 'fair and reasonably' being charged to customers.

On local portability we therefore recommend:

- The FCC requires the Bells to either drop the charge or prove that this charge, based on Bells' profits are "just and reasonable".
- The FCC should start an inquiry into making local number portability fully implemented to include moving a local phone number to another location within, at least, the same LATA. We believe that the FCC has this authority under Section 251 and/or Section 201 of the Act. The number portability database and related system were created at federal direction and are funded with federally authorized charges. We believe that this gives the FCC inherent authority to impose consumer-friendly requirements on how the system is to be used. However, we consider this only part of the solution and that full phone number portability including area codes needs to be implemented immediately.

### **Area Code Portability**

It could be argued that the ability to take your entire phone number when you move, including the area code, should be a God-given right in the Digital Age. But if the issues surrounding local phone numbers are a serious problem, the wholesale changes of customers' area codes is a major disruption --- a true telecom nightmare. . In the last two years, from Texas and Florida, to Pennsylvania, and California, Area code 'splits', where sections of the population are required to use an new area code, have become common. Sadly, a large swath of residential and business customers must endure changes in everything that includes their phone numbers, from redoing stationary to contacting clients, friends, and family.

A compendium of the Area Code changes by state can be found at:

<http://www.lincmad.com/areacode.html>

There are many who believe that we are at the point of crisis on area codes. To be blunt, according to numerous sources, America is running out of phone numbers and so these

area code ‘splits’, are required. According to a new report by Economics & Technology, released June, 2000:<sup>8</sup>

“During the late 1990s, the national area code crisis escalated to a new level, with the depletion of numbering resources threatening the future of the entire North American Numbering Plan (NANP). Meanwhile, the seemingly endless succession of new area codes throughout the country imposed substantial cost and inconvenience for consumers and, in response, federal and state regulators began with increased urgency to investigate ways to extend the lives of area codes.”

After work by the FCC and others to solve the problems, some solutions call for adding numbers to the current plans... say a 4 digit area code, at a potential cost of \$150 billion dollars.

“This lack of effective number conservation has raised the specter of NANP exhaust — running out of area codes available for assignment — within the current decade. NANP exhaust would require that one or more additional digits be added to the existing 10-digit dialing format, a move that would cost the US economy as much as \$150-billion or more. Although progress has been slow and the learning curve apparently steep, it is still possible to avoid the exhaust of the NANP. But time is fast running out, and continued delay and inaction on the part of regulators can no longer be tolerated.”

NNI concedes this problem will not get better anytime soon. In part the problem is artificial. Some area codes are being depleted, but in general, there are lots of numbers not being used. The Citizens Utility Board of Illinois in 1998, found that one of the reasons for this area code depletion was that the phone companies were hoarding the numbers for future use.

“For example, of the 7.92 million phone numbers available in the 847 area code, just 3.5 million are actually being used by customers, on reserve for customers or unable to be used for some technological reason. The more than 4 million numbers remaining are being hoarded by the phone industry. That means that for every one phone number in use in 847 another phone number is being wasted by the industry.”<sup>9</sup>

Note: There are other plans that should be of interest to the reader such as the North American Numbering Plan Forum at <http://www0.delphi.com/nanp/> or the LincMad plan at <http://www.lincmad.com/>

**Solving Area Code Portability: \*100 Network. And Area Code Portability.**

In 1990, New Networks Institute proposed a series of solutions for these problems. And our conclusion a decade ago, as it is today, is that the depletion of phone numbers is artificial, but politically real. Therefore, a solution was needed that:

- Made as little changes to the current dialing as possible.
- Required no one to change their phone numbers if they didn't want to
- Allowed people the security that their number would remain theirs.
- Gave people new options to receive a "vanity" phone number, a number of their own choosing,
- Didn't change anything about dialing, such as adding more digits.
- Had at its basis something that could differentiate itself from the older numbering plan, but also made market announcement simple.

Our experiences of assisting the larger companies with roll out of the interactive 900 Area Code, and the creation of the 500 Area Code numbers, not to mention our knowledge of the history and work on 800 "portability", gave us some of the critical issues that needed to be explained and delineated before the rollout of a new dialing plan could be conducted. NNI also had assistance from numerous industry experts and responsive staffers inside the long distance and Bell companies.<sup>10</sup>

### **The Reasons For Selecting This Dialing Plan**

It is important for a new product in telecommunications to be technologically feasible, customer friendly, and psychologically sound. Some of the tenets of the "\*100" design are:

- **DO NOT ADD NEW NUMBERS Was A Primary Goal.** The American phone number is a 3-3-4 pattern of numbers--- a total of 10 numbers grouped in a pattern, as in 212-777-5418. There is also an additional "1", in front of virtually all long distance numbers, as in 1-212-777-5418. This is a separate but related item to remember. It was our concern that any additional numbers, besides the replacement of the first digit, would only complicate the issues surrounding the memory of numbers. Numerous psychology studies point to the need to NOT make the string of numbers longer.<sup>11</sup>
- **The Plan Had To Have Something Distinctive To Make The Changes Memorable.** In the case of \*100, we use the Star as something distinct and separate from a number, and we use the 100 Area code primarily because it is not in use today and could be a very important starting marker in the marketing campaign, assisting customers to realize that this network is distinct from the other numbering plan. Psychologically, this distinction would hopefully stop a wrong number occurring if they called a number that starting with 1 as in 1-212-777-5418 vs a \*-212-777-5418.

Therefore, a caller would simply dial \*212-777-5418 to reach a number on this separate but equal network.

NOTE: Use of the “0” as the first digit: We are also aware that the “0” is used instead of the number 1 as part of a billing mechanism for a “collect” or “operator assisted” call. Therefore, the changes to the first digit, instead of having to remember other changes to the dialing plan, should be customer friendly.

- **New Unlimited Resource** Using a new number (alpha-numeric) and a 10 digit dialing pattern gives America an entirely new set of numbers---- a total of 9,999,999,999 ---- almost 10 billion numbers. Obviously, there are numerous sets of numbers that may be set off for specific functions... for example, a complete new set of “800 area code numbers could be created as \*800, etc.
- **Technologically Feasible** Most of the newer equipment has been programmed to add the additional “1” when a call is dialed. Though there are industry arguments about the costs associated with any changes to the dialing plan, with the advent of digital switches, this plan should not be any more costly than others proposed.

We also recommend that other features be included in this network.

- **The “Follow-Me” Concept** The network should be agile enough to transfer the call to the designated location of the caller. For example, the customer may want the phone number to be the wireline service, the fax, the cell phone, the pager, the computer, directly to voicemail or e-mail, or any other assignment that the customer wants to make.
- **“Do Not Bother Me”** – Customers should be able to either assign their number in the database to not accept telemarketing calls, or separate new area codes could be assigned for those who wish not to receive Telemarketing calls.
- **Unlisted Number** capability is a must.
- **Specific Information Numbers**, such as the 555-1212, can be created so that new companies can have these numbers and offer competing services.
- **Three Digit Dialing** --- 411 is the most common today, and there could also be a \*411 equivalent. (911 should never have anything in front of it.)
- **Vanity Numbers** --- If there is no need for geography than ANY 10 digits or letter can be used to complete the call. Phone numbers such as “\*Charlie100”, “\*TOO-COOL-JOE”, or even “\*Whitehorse” could all be potentials. In short, a customer could select their own phone number.

### Conclusion:

The FCC needs to immediately investigate and solve the problems associated with local and long distance phone number portability and we have outlined what we believe to be a sound solutions to the issues.

## ENDNOTES

<sup>1</sup> “ In the Matter of Telephone Number Portability, CC Docket No. 95-116 First Report And Order And Further Notice Of Proposed Rulemaking” Released: July 2, 1996, section 110

<sup>2</sup> Telecommunications Act of 1996, Section 251(e)(2)

<sup>3</sup> [http://www.fcc.gov/Bureaus/Common\\_Carrier/Factsheets/portable.html](http://www.fcc.gov/Bureaus/Common_Carrier/Factsheets/portable.html)

<sup>4</sup> New Jersey/Bell Atlantic 10Q, first quarter, 2000.

<sup>5</sup> Interview with Kate Lynch of Bwaynet, 6/20/00

<sup>6</sup> SEC. 215. [47 U.S.C. 215] Transactions Relating to Services, Equipment, and So Forth, the Communications Act of 1934 (as amended in 1996).

<sup>7</sup> “How the Bells Stole America’s Digital Future”, A NetAction white Paper, 6/22/00.

<http://www.netaction.org/broadband/bells/>

<sup>8</sup> “Where Have All The Numbers Gone? Rescuing the North American Numbering Plan From Mismanagement and Premature Exhaust”, (Second Edition) Economics & Technology, June 2000

<http://www.econtech.com/documents.htm>

<sup>9</sup> “ Is the Chicago area running out of phone numbers again?” Citizen Utility Board of Illinois.

<http://www.cubportabilityphone.html>,

<sup>10</sup> In 1985, NNI was involved with the development and rollout of 900 services, and in 1990 we proposed the creation of the “500 network”. Also, starting in 1980’s, 800 services went through a process so that the number could be transferred to competitors.

<sup>11</sup> “The Magic Number Seven, Plus Or Minus Two”. For anyone who has ever taken a psychology class, this formula, created by George Miller and published in an article of the same name concluded a simple truth. In examining numerous psychological experiments dealing with memory, the mind is most comfortable with remembering a collection of seven things. For example, there are seven notes in a major music scale, and most non-western cultures have similar traits. Tests in all modalities, from hearing/listening to visual information, or even random words, showed that a human’s ability to memorize should be kept to seven objects, plus or minus two. Therefore, additional new material would have added complexity, and therefore we believe it is a bad idea for phone numbers.