

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Arapahoe) Application No. C-3132
Telephone Company, Arapahoe,)
seeking a suspension or)
modification of the Federal) INTERIM RELIEF GRANTED
Communications Commission)
Requirement to Implement)
Wireline-Wireless Number)
Portability Pursuant to 47 U.S.C.)
Section 251(f)(2).)

In the Matter of the Application) Application No. C-3133
of Benkelman Telephone Company,)
Inc., Benkelman, seeking a)
suspension or modification of the)
Federal Communications Commission)
Requirement to Implement)
Wireline-Wireless Number)
Portability Pursuant to 47 U.S.C.)
Section 251(f)(2).)

In the Matter of the Application) Application No. C-3134
of Cozad Telephone Company,)
Cozad, seeking a suspension or)
modification of the Federal)
Communications Commission)
Requirement to Implement)
Wireline-Wireless Number)
Portability Pursuant to 47 U.S.C.)
Section 251(f)(2).)

In the Matter of the Application) Application No. C-3135
of Curtis Telephone Company,)
Curtis, seeking a suspension or)
modification of the Federal)
Communications Commission)
Requirement to Implement)
Wireline-Wireless Number)
Portability Pursuant to 47 U.S.C.)
Section 251(f)(2).)

In the Matter of the Application) Application No. C-3136
of Diller Telephone Company,)
Diller, seeking a suspension or)
modification of the Federal)
Communications Commission)
Requirement to Implement)
Wireline-Wireless Number)
Portability Pursuant to 47 U.S.C.)
Section 251(f)(2).)

In the Matter of the Application) Application No. C-3137
of Glenwood Telephone Membership)
Corporation, Glenwood, seeking a)
suspension or modification of the)
Federal Communications Commission)
Requirement to Implement)
Wireline-Wireless Number)
Portability Pursuant to 47 U.S.C.)
Section 251(f)(2).)

In the Matter of the Application) Application No. C-3138
of Hartman Telephone Company,)
Hartman, seeking a suspension or)
modification of the Federal)
Communications Commission)
Requirement to Implement)
Wireline-Wireless Number)
Portability Pursuant to 47 U.S.C.)
Section 251(f)(2).)

In the Matter of the Application) Application No. C-3139
of Keystone-Arthur Telephone)
Company, Keystone, seeking a)
suspension or modification of the)
Federal Communications Commission)
Requirement to Implement)
Wireline-Wireless Number)
Portability Pursuant to 47 U.S.C.)
Section 251(f)(2).)

In the Matter of the Application) Application No. C-3140
of Mainstay Communications, f/k/a)
Henderson Cooperative Telephone)
Company, Henderson, seeking a)
suspension or modification of the)
Federal Communications Commission)
Requirement to Implement)
Wireline-Wireless Number)
Portability Pursuant to 47 U.S.C.)
Section 251(f)(2).)

In the Matter of the Application) Application No. C-3141
of Plainview Telephone Company,)
Plainview, seeking a suspension)
or modification of the Federal)
Communications Commission)
Requirement to Implement)
Wireline-Wireless Number)
Portability Pursuant to 47 U.S.C.)
Section 251(f)(2).)

In the Matter of the Application) Application No. C-3142
of Southeast Nebraska Telephone)
Company, Falls City, seeking a)
suspension or modification of the)
Federal Communications Commission)
Requirement to Implement)
Wireline-Wireless Number)
Portability Pursuant to 47 U.S.C.)
Section 251(f)(2).)

In the Matter of the Application) Application No. C-3143
of Wauneta Telephone Company,)
Wauneta, seeking a suspension or)
modification of the Federal)
Communications Commission)
Requirement to Implement)
Wireline-Wireless Number)
Portability Pursuant to 47 U.S.C.)
Section 251(f)(2).)

In the Matter of the Application) Application No. C-3146
of Pierce Telephone Company,)
Pierce, seeking a suspension or)
modification of the Federal)
Communications Commission)
Requirement to Implement)
Wireline-Wireless Number)
Portability Pursuant to 47 U.S.C.)
Section 251(f)(2).)

In the Matter of the Application)	Application No. C-3147
of Hooper Telephone Company,)	
d/b/a Westel Systems, Remsen,)	
Iowa, seeking a suspension or)	
modification of the Federal)	
Communications Commission)	
Requirement to Implement)	
Wireline-Wireless Number)	
Portability Pursuant to 47 U.S.C.)	
Section 251(f)(2).)	Entered: April 6, 2004

BY THE COMMISSION:

By Motions filed by Arapahoe Telephone Company; Benkelman Telephone Company, Inc.; Cozad Telephone Company; Curtis Telephone Company; Diller Telephone Company; Glenwood Telephone Membership Corporation; Hartman Telephone Company; Keystone-Arthur Telephone Company; Mainstay Communications, f/k/a Henderson Cooperative Telephone Company; Plainview Telephone Company; Southeast Nebraska Telephone Company and Wauneta Telephone Company, on February 23, 2004; and Pierce Telephone Company and Hooper Telephone Company, d/b/a Westel Systems, on February 27, 2004, (hereinafter, collectively referred to as "the carriers"), seek orders granting interim relief pursuant to 47 U.S.C. § 251(f)(2) and requesting hearings (hereinafter, referred to as Motions for Interim Relief.) In support of these Motions, the carriers aver that they have filed applications with the Commission pursuant to 47 U.S.C. § 251(f)(2) seeking suspension or modification of the requirement set forth *In the Matter of Telephone Number Portability*, CC Docket 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 03-284 (rel. November 10, 2003.) The Intermodal Order obligates local exchange carriers located outside the top 100 metropolitan statistical areas (MSAs) to provide local number portability (LNP) and to be ready to port numbers to wireless carriers when certain conditions have been met. This obligation begins on May 24, 2004. Section 251 (f)(2) gives this Commission the jurisdiction to suspend or modify requirements of the FCC for rural carriers when such relief is sought. The language of this section reads in pertinent part,

(2) Suspensions and modifications for rural carriers .
. . The State commission shall grant such a 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.** 47 U.S.C. § 251(f)(2)(Emphasis Added).

O P I N I O N A N D F I N D I N G S

Upon consideration of the Motions for Interim Relief, the Commission is of the opinion and finds said Motions for Interim Relief from the obligation to implement local number portability should be granted pending the review of these applications until further notice by the Commission. The Commission will not set a date certain for the enforcement of the local number portability requirement at this time as requested. Rather, the Commission will make a determination on the duration of the interim relief relative to each application after it has received evidence and held a hearing. At that time, the Commission will further consider the time needed by each carrier to implement LNP.

Clearly, because of time constraints on the Commission's calendar, the 180-day timeframe in which the Commission must render its decision, and because of the number of applications filed with the Commission seeking a suspension under 47 U.S.C. § 251(f)(2), it would be difficult for the Commission to hold an evidentiary hearing and make its ruling on every application for suspension or modification of the LNP requirement filed prior to the May 24, 2004, deadline. The Commission finds it appropriate to grant the Motions for Interim Relief pending our review of the applications.

The present decision to grant interim relief should in no way serve as an indication as to how we will rule on the merits of the underlying applications.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Motions for Interim Relief be granted and the enforcement period be suspended until a date later to be determined by the Commission as provided herein.

MADE AND ENTERED at Lincoln, Nebraska, this 6th day of April 2004.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director