

**Public Service Commission**

**4006 Rules Governing the Deployment of Interim Number Portability Measures in the  
State of Delaware (Docket 46)**

**1.0 Definitions**

- 1.1 Interim Number Portability - the provisioning of number portability during the interim period by currently technically feasible methods.
- 1.2 Interim Period - the interim period shall begin on the date a local exchange carrier receives a request for deployment of interim number portability and ends on the date the local exchange carrier deploys number portability using a long-term database method under 47 C.F.R. § 52.3.
- 1.3 Local Exchange Carrier - a person that is engaged in the provision of telephone exchange service or exchange access service. For the purposes of this set of rules, such term does not include a person insofar as such person is engaged in the provision of a commercial mobile radio service under 47 U.S.C. §332(c).
- 1.4 Number Portability - 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.
- 1.5 Per Cent Market Share - represents a telecommunications carrier's share in the local exchange telecommunications market. For "wireline" telecommunications carriers, market share is calculated by dividing that telecommunications carrier's total number of active "wireline" access lines by the total number of active "wireline" access lines in the State of Delaware. For commercial mobile radio service telecommunications carriers, market share is calculated by dividing the sum of the telecommunications carrier's total number of active "wireline" access lines and active telephone numbers by the total number of active "wireline" access lines in the State of Delaware.
- 1.6 Remote Call Forwarding (RCF) - a method whereby a call to a telephone number in one exchange is automatically redirected by the telecommunications carrier's end office equipment to another telephone number in the same or different exchange on the same or different carrier's network.
- 1.7 Telecommunications - the transmission, between or among points specified by the user, of information of the user's choosing without change in the form or content of the information as sent and received.
- 1.8 Telecommunications Carrier - a provider of telecommunications services, except that such term does not include aggregators of telecommunications services, as defined in 47 U.S.C. § 226(a)(2).
- 1.9 Telecommunications Service - the offering of telecommunications for a fee directly to the public, or such classes of users as to be effectively available directly to the public, regardless of the facilities used.
- 1.10 The Commission - the Delaware Public Service Commission.

**2.0 Deployment of Interim Number Portability**

- 2.1 During the interim period, all local exchange carriers shall provide interim number portability as soon as reasonably possible upon receipt of a specific request from another telecommunications carrier.
- 2.2 Except as the carriers may agree or the Commission may otherwise order under Rules 2.4 and 2.5, all local exchange carriers shall provide interim number portability during the interim period using Remote Call Forwarding.
- 2.3 The Commission may waive the requirements of Rules 2.1 and 2.2 for a local exchange carrier which demonstrates that Remote Call Forwarding is not a technically feasible method for interim number portability for that local exchange carrier.
- 2.4 A local exchange carrier may agree to provide interim number portability to a telecommunications carrier utilizing technically feasible methods other than Remote Call Forwarding on mutually agreeable terms, conditions, and charges. A local exchange carrier providing interim number portability under

such an agreement shall offer such non-RCF interim number portability methods to other telecommunications carriers upon the same terms, conditions, and charges.

2.5 Upon petition or upon its own motion, the Commission may require that a local exchange carrier provide interim number portability by a technically feasible method other than Remote Call Forwarding or by a combination of technically feasible methods. The providing carrier shall bear the burden of proving that any requested method is technically infeasible.

2.6 Prices for interim number portability shall be set at a level that takes into account the relative inferior quality of the service provided, its interim nature, and the necessity for the development of a competitive market for local exchange services.

*COMMENTS: These rules adopt Remote Call Forwarding as the presumptive method for providing number portability during the interim period, now expected to end by late 1998. Staff believes that RCF is a presently technically feasible means. At the same time, Staff acknowledges that RCF, as a method for number portability, has limitations including: (1) its failure to support several custom local area signaling services and other vertical features; (2) the possible degradation of transmission quality; (3) the existence of limits on the number of calls to customers of the same competing service provider that can be handled at any one time; and (4) the need to allocate access charges derived from interexchange carriers between the provisioning local exchange carrier and the recipient end-user carrier. Staff also acknowledges the disagreement among the participants in Regulation Docket 46 as to the viability of RCF for large volume end-user customers. Because of these limitations, this section allows carriers to negotiate and agree to other methods for providing portability. The section also allows the Commission, acting upon request or on its own initiative, to explore ordering other methods of portability if circumstances warrant. If carriers do agree to provide interim portability by other non-RCF methods, the local exchange carrier must offer the same methods to other similarly-situated requesting carriers.*

**3.0 Cost Recovery Mechanism for Interim Number Portability**

*Costs*

3.1 The mechanisms for the recovery of interim number portability costs set forth in these Rules take into account the relative inferior quality of the methods used for portability, the interim nature of the methods, and the need to develop a competitive market for local exchange services.

3.2 For purposes of the cost recovery mechanism in these Rules, the recoverable costs for providing RCF interim number portability shall be:

- (i) the Total Element Run Incremental Cost through ("TELRIC") of providing interim number portability through RCF, as determined by the Commission under Rule 4.1 or in some other proceeding;
- or
- (ii) (in the absence of a determination of TELRIC costs), the following proxies:

<b>Non-Recurring Proxy Costs</b>	<b>Recurring Proxy Costs</b>
\$ 5.10 Service Order Charge Per Order	\$2.33 Per Number Per Month for 0 to 10 Call Paths
\$18.76 Installation Charge, Per Number	\$0.40 Per Number Per Month for Each Additional Path.
(Not applicable if RCF is installed with an unbundled loop)	

*COMMENTS: The first portion of this section provides a calculation of the costs for providing RCF interim number portability, to be used both for calculating the threshold set out below and for the subsequent cost assessments against carriers, if implemented. The rules provide that if the Commission should, either under these Rules or in another proceeding (such as a generic docket or a Statement of Generally Available Terms and Conditions), determine the actual costs for providing RCF number portability, then those actual costs should be used to measure the breach of the threshold and the amounts of recoveries from the other chargeable carriers. However, until such a determination is*

*made, the section provides proxy costs to be adopted for threshold and assessment purposes. The recurring cost proxies have been derived from cost materials submitted by Bell Atlantic-Delaware, Inc. in response to Staff data requests in Regulation Docket No. 46. The non-recurring proxy costs are based on the results of arbitration concerning service order costs in PSC Docket No. 96-204.*

*Threshold for Cost Assessment and Recovery*

3.3 During the interim period, a local exchange carrier may not recover the costs of providing RCF interim number portability under these Rules from other telecommunications carriers until the local exchange carrier's total costs of providing interim number portability (as defined in Rules 3.2 and 3.2.1) exceed the lesser of:

3.3.1 \$50,000; or

3.3.2 one tenth of one percent of the local exchange carrier's gross annual intrastate revenues.

*Post-Threshold Cost Recovery*

3.4 If a local exchange carrier's costs of providing RCF number portability during the interim period exceeds the amounts set forth in Rule 3.3, then the local exchange carrier may thereafter recover a cost assessment from each telecommunications carrier that has, or will, request interim number portability.

3.5 The cost assessment that the local exchange carrier may recover under rule 3.4 from the requesting telecommunications carrier shall be:

The cost (as defined in Rule 3.2) of providing RCF interim number portability to the requesting carrier

times

The requesting telecommunications carrier's market share as defined in Rule 1.5.

3.6 At the time a local exchange carrier begins to recover the cost assessment from a requesting telecommunications carrier under Rules 3.4 and 3.5, the local exchange carrier may also recover a cost assessment for RCF interim number portability from: (1) those telecommunications carriers that provide end-user wireline access predominantly (over seventy-five percent) by means of the resale of services purchased from that local exchange carrier or (2) those telecommunications carriers that purchase unbundled network elements from the local exchange carrier.

3.7 The cost assessment that the local exchange carrier may recover from each telecommunications carrier described in Rule 3.6 shall be:

.25 (the local exchange carrier's aggregate costs (as defined in Rule 3.2) for providing RCF interim number portability to all telecommunications carriers during the period)

times

The market share, as defined by Rule 1.5, of the telecommunications carrier providing end-user wireline access by resale or by purchase of unbundled network elements less any direct payment made under Rule 3.5 except that the amount cannot be less than zero.

*COMMENTS: This portion of the section creates a cost threshold of the lesser of \$50,000 or one tenth of one percent of the local exchange carrier's intrastate revenues. That threshold must be breached before the local exchange carrier may choose to impose cost assessment on other carriers for RCF interim number portability. If, during the interim period, the costs of RCF number portability to a particular local exchange carrier never exceed the threshold, the costs may not be recovered. Staff adopts the threshold formulation because the threshold amounts appear to be de minimis in relation to an exchange carrier's gross annual intrastate revenue and any attempt to collect portability costs below such level may result in administrative expenses greater than the amount of costs incurred.*

If the cost threshold is breached by a local exchange carrier, that carrier may choose, but is not obligated, to recover its post-threshold RCF portability costs from other carriers, on a "going forward" basis. Staff anticipates that a carrier's decision to undertake, or forego, cost assessments may be guided by the anticipated post-threshold costs and the anticipated time remaining in the interim period. If a local exchange carrier decides to impose the cost assessments, it can do so against two categories of carriers. First, it can charge an amount of its on-going costs to the carrier requesting a ported number. That assessment is set at the proportion of the cost (actual or proxy) relative to the

requesting carrier's market share. At the same time, the local exchange carrier may also assess costs against carriers reselling the local exchange carrier's retail services or purchasing unbundled network elements. The amount to be paid by carriers in this second category is based on one-quarter of the local exchange carrier's total RCF number portability costs with each such carrier paying a portion relative to its market share. Staff recognizes that resellers and purchasers of network elements do not, or may not, request number portability. However, the rules allow such carriers to be assessed for interim number portability costs in order to make the recovery mechanism "competitively neutral" between the requesting carriers, the local exchange carrier, and other carriers. In addition, in an attempt to maintain equity between requesting carriers (who may be assessed costs based upon their market share of the costs for the numbers they request) and the resellers and purchasers of elements (who may be assessed based on total portability costs), the rules provide that the assessment for the latter carriers is based only on one-quarter of the total costs.

Staff acknowledges that the recovery mechanism does not perfectly allocate the costs of RCF interim portability among all telecommunications carriers. Instead, the recovery mechanism is intended to provide a substantially fair, broader-based recovery mechanism which can be implemented without continued Commission oversight. The rules attempt to allow recovery from carriers who deal directly with the local exchange carrier.

#### **4.0 Opportunity for Determination of Actual Costs for Providing Interim Portability**

- 4.1 If at the time a local exchange carrier begins to recover cost assessments under Rules 3.4 through 3.7 the Commission has not determined the actual costs for providing RCF interim number portability, the local exchange carrier or any telecommunications carrier from whom recovery is sought may petition the Commission to conduct a proceeding to determine the actual costs of providing RCF interim number portability.
- 4.2 Upon such a petition, the Commission shall determine the TELRIC costs of providing RCF interim number portability.
- 4.3 Until the time the Commission determines the TELRIC costs of providing RCF interim number portability, the local exchange carrier may impose cost assessments using the proxy cost set forth in Rule 3.2. Such assessments may be subject to later reconciliation as set forth in these Rules.

*COMMENTS: As noted earlier, the rules premise the threshold and any later assessments for RCF interim number portability on actual cost determinations made in a Commission proceeding or the use of proxies. If at the time the threshold is breached and the local exchange carrier begins to impose cost assessments the commission has not entered any order setting TELRIC RCF number portability costs, this section allows the local exchange carrier or any charged carrier to request that the Commission determine actual costs in a proceeding. Until such TELRIC costs are determined, the assessments may still be based upon the proxies, but subject to the later true-up procedure described in Section 5. Again, if all carriers are satisfied with continued use of the proxies during the remainder of the interim period, the Commission need not undertake a proceeding to determine TELRIC costs.*

#### **5.0 True-up Upon Determination of Actual Costs**

- 5.1 After a Commission determination of actual costs for providing RCF interim number portability, the Commission, on its own motion or upon the petition of a telecommunications carrier, may order a reconciliation or true-up of the cost recovery mechanism set forth in these Rules.
- 5.2 In the reconciliation or true-up process, the determined TELRIC costs shall be used to calculate the costs for purposes of the threshold under Rule 3.3 and to make adjustments to all cost assessments previously recovered by the local exchange carrier under Rules 3.4 through 3.7. The reconciliation shall apply to the entire interim period.
- 5.3 Payments of adjusted amounts due under the reconciliation shall be recovered through a method agreed upon by the carriers. If no agreement can be reached, any carrier may petition the Commission to determine a reconciliation recovery method.

*COMMENTS: This section creates a true-up mechanism to adjust the amounts calculated by use of the proxies with the TELRIC costs, once determined. Under the process, once actual costs have been*

*determined, the threshold can be re-calculated and any costs incurred and assessed thereafter reconciled. When the assessments using TELRIC costs exceed the amounts collected by use of the proxy costs, the additional assessments may be collected from the previously assessed carriers. Conversely, if the TELRIC costs are below the amounts collected using the proxy costs, the assessed carriers may recover the excess payments. The over- and under-recoveries are both net of the threshold amount set forth in Rule 3.3.*

**6.0 Distribution of Access Charges Paid by Interexchange Carriers**

6.1 During the interim period, the local exchange carrier providing RCF interim number portability shall collect the interexchange carrier ("IXC") access revenue in the process of forwarding an interexchange carrier's telecommunications call to an end-user of a second telecommunications carrier.

6.2 The local exchange carrier collecting the access revenue under Rule 6.1 shall distribute the collected relevant revenue to compensate the second carrier for revenue lost due to the use of RCF interim number portability. The relevant access revenue shall be distributed as follows:

- the approximation of "terminating IXC minutes of use ('MOUs') over ported numbers," to which the revenue distribution would apply, shall be determined by applying the ratio of terminating IXC access MOUs/ total (local and toll) terminating MOUs to the actual measured total terminating interim number portability MOUs
- the rate adjustment amount, over which the "terminating IXC minutes of use ('MOUs') over ported numbers" would apply, shall be calculated as follows:

rate adjustment = total IXC exchange access rate charged by the collecting carrier pursuant to its tariffs minus the meet point billing for the collecting carrier (if applicable) minus local reciprocal compensation rate of the second carrier (if applicable)

*COMMENTS: This section sets up method for dividing the interexchange access charges when the interexchange carrier's communication is ported by RCF to another carrier's network. The provisions of the section set up a formula to approximate the number of terminating access minutes of use that were routed by RCF interim number portability to end-users on the second carrier's network. The section also defines an adjusted access rate to reflect monies that might be due to the porting carrier from a meet point billing arrangement and reciprocal compensation from local traffic. The first carrier will subtract those per minute arrangements from its tariffed access rate, multiply by the number calculated under the "terminating IXC minutes of use ('MOU') over ported numbers" formula, and distribute that amount to the second carrier.*

**7.0 Miscellaneous**

7.1 These rules shall govern during the interim period.

7.2 All telecommunications carriers shall provide all information deemed necessary by the Commission and the Commission Staff to assist in the administration of these rules in any proceeding thereunder.

7.3 The Commission reserves the right to waive the application of these Rules or to make such amendments as may appear necessary or appropriate in accordance with the provisions of the Administrative Procedures Act, 29 Del.C. ch. 101.

<sup>1</sup> See 47 C.F.R. " 52.27, 52.29 (transitional number portability measures)