

tank and freight vessels moored at the docks in the regulated area must remain on board for the duration of the port call unless escorted by designated HOVENSA personnel or specifically authorized by the Captain of the Port San Juan, or a Coast Guard commissioned, warrant, or petty officer designated by him. The Captain of the Port will notify the public of any changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 16 (157.1 Mhz).

(c) *Dates.* This section becomes effective at 5 a.m. on May 25, 2002, and will terminate at 11:59 p.m. on October 31, 2002.

Dated: May 24, 2002.

J.A. Servidio,

Commander, U. S. Coast Guard, Captain of the Port, San Juan.

[FR Doc. 02-14971 Filed 6-12-02; 8:45 am]

BILLING CODE 4910-15-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[CC Docket No. 95-116; FCC 02-16]

Telephone Number Portability, Memorandum Opinion and Order on Reconsideration and Order on Application for Review

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) addresses issues raised in petitions for reconsideration and clarification of the Commission's *Third Report and Order* on long-term number portability (LNP) and affirms the Common Carrier Bureau's *Cost Classification Order*. The document clarifies and affirms matters related to the recovery of carrier costs for LNP, which were decided in two prior *Orders*.

DATES: The rules adopted herein shall be effective July 15, 2002, except for § 52.33(a)(3), which contains information collection requirements that have not been approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Margaret Dailey (202) 418-2396, fax (202) 418-1567, or mdailey@fcc.gov. The address is: Pricing Policy Division, Wireline Competition Bureau, Federal

Communications Commission, The Portals, 445 12th Street, SW, Suite 5-A207, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration and Order on Application for Review in CC Docket No. 95-116, FCC No. 02-16, in the matter of Telephone Number Portability, adopted January 23, 2002, and released February 15, 2002. The full text of this item is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com

Synopsis of the Order on Reconsideration and Order on Application for Review

Section 251(b)(2) of the Communications Act of 1934, as amended (the Act), seeks to remove one barrier to competition by requiring all local exchange carriers (LECs) "to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." On May 5, 1998, the Commission adopted the *Third Report and Order* in this docket, implementing section 251(e)(2) of the Act with regard to the costs of providing long-term number portability (LNP). In the *Third Report and Order*, 63 FR 35150, June 29, 1998, the Commission concluded that incumbent LECs may recover their carrier-specific costs directly related to providing LNP on a competitively neutral basis, through two federal charges: (1) A monthly number-portability charge applicable to end users; and (2) a LNP query-service charge, applicable to carriers on whose behalf the LEC performs queries. On December 14, 1998, pursuant to authority delegated to it in the *Third Report and Order*, the Common Carrier Bureau issued the *Cost Classification Order*, 64 FR 2493, Jan. 14, 1999, which specifically addressed issues related to the determination of costs eligible for cost recovery, the apportionment of costs between portability and non-portability services, and apportionment between end-user charges and query service charges. The Order on Reconsideration and Order on Application for Review (Order) responds to three types of issues raised

in petitions for reconsideration and clarification and applications for review.

First, it clarifies numerous points made in the *Third Report and Order*. Specifically, it clarifies that: (1) The LNP administrator may assess shared costs on all eligible telecommunications carriers, not just carriers with existing LNP contracts; (2) incumbent LECs must allocate their shared costs between the query service and end-user charges; (3) carriers may not recover LNP costs from other carriers through interconnection charges or resale prices; (4) an incumbent LEC may assess the LNP end-user charge on resellers and purchasers of switching ports as long as it provides LNP functionality; (5) commercial mobile radio service providers are co-carriers, not end users, and, therefore, are not subject to an end-user charge; (6) carriers who offer Feature Group A access lines may assess an end-user surcharge on such lines; (7) small and rural incumbent LECs that do not yet provide LNP functionality but provide Extended Area Service (EAS) may recover their N minus one (N-1) query and LNP Administration costs through end-user charges; (8) incumbent LECs may not begin billing carriers for N-1 queries until a number has been ported from an NXX; and, (9) after the five-year recovery period for implementation costs of LNP through the end-user charge, any remaining costs will be treated as normal network costs.

Second, it affirms several issues decided in the *Third Report and Order* and the *Cost Classification Order*. Specifically, it affirms that: (1) The Commission has exclusive jurisdiction over the distribution and recovery of costs associated with intrastate and interstate number portability; (2) carriers not subject to rate-of-return regulation or price caps may recover their carrier-specific costs in any lawful manner consistent with their obligations under the Communications Act; (3) Centrex lines may be assessed one end-user LNP charge per line and a private branch exchange (PBX) trunk may be charged nine end-user LNP charges per PBX trunk; (4) Plexar may be assessed one LNP charge per line; (5) incumbent LECs may impose an end-user charge in service areas where the switch is number-portability-capable; (6) price cap LECs and rate-of-return LECs should treat the query services charge as a new service within the meaning of § 61.38 of the Commission's rules; (7) carriers may only recover carrier-specific costs directly related to the provision of LNP; (8) carriers must distinguish clearly

costs incurred for narrowly defined portability functions from costs incurred to adapt their systems to implement LNP; (9) costs carriers incur as an incidental consequence of LNP are ordinary costs of doing business and represent general network upgrades; and (10) costs that do not meet the two-part cost recovery test may not be recovered through LNP cost recovery mechanisms. It also affirms (11) the adoption of the end-user revenue allocator but permits national and multi-region carriers to allocate, among the seven LNP regions identified in the Telecommunications Reporting Worksheet their end-user revenue, based upon the percentage of subscribers served in each region, upon certification that they are unable to precisely divide their traffic and resulting end-user revenue; (12) the rules adopted in the *Third Report and Order* concerning leveled charges; and (13) the two-part cost recovery test.

Third, it denies certain requests concerning cost recovery. Specifically, it denies requests that certain costs associated with LNP be calculated based on avoided costs and TELRIC.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), there will not be a significant economic impact on a substantial number of small business entities resulting from this Order on Reconsideration and Order on Application for Review. All clarifications are of a minor, procedural nature except one clarification that will result in a positive net impact on small entities. Small and rural incumbent LECs that do not yet provide LNP functionality but do provide service under EAS arrangements may recover their N-1 query and LNP administration costs through end-user charges. Because this will allow small and rural incumbent LECs to recover their costs, it will have a *de minimus* impact on the affected small entities.

Paperwork Reduction Analysis

The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and/or recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and/or recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the Act, and will go into effect upon announcement of OMB approval in the **Federal Register**.

The specific requirements that are subject to OMB approval are § 52.33(a)(3) and the requirement that

carriers electing to report end-user revenue based upon percentage of 2 subscribers served in each LNP region must file a certification that they are unable to report based upon actual end-user revenue in each LNP region.

Ordering Clauses

Accordingly, *It is ordered* that, pursuant to sections 1, 2, 4(i), 201-205, 215, 251(b)(2), 251(e)(2), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 201-205, 215, 251(b)(2), 251(e)(2), and 332, this Memorandum Opinion and Order on Reconsideration and Order on Application for Review (“Order”) and the revisions to part 52 of the Commission’s rules, 47 CFR part 52, are hereby *adopted*. The rules adopted herein shall be effective July 15, 2002, except for § 52.33(a)(3), which contains information collection requirements that have not been approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

It is further ordered that, pursuant to sections 1, 2, 4(i), 201-205, 215, 251(b)(2), 251(e)(2), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 201-205, 215, 251(b)(2), 251(e)(2), and 332, the Petitions for Reconsideration and/or Clarification and the Applications for Review *are granted* to the extent indicated herein and otherwise *are denied*.

It is further ordered that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 52

Communications common carriers, Cost recovery, Number portability, Telephone.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 52 as follows:

PART 52—NUMBERING

1. The authority for part 52 continues to read as follows:

Authority: Secs 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. 151, 152, 154, 155 unless otherwise noted. Interpret or apply secs. 3, 4,

201-05, 207-09, 218, 225-7, 251-2, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201-05, 207-09, 218, 225-7, 251-2, 271 and 332 unless otherwise noted.

2. Section 52.33 is amended by revising paragraphs (a) introductory text, (a)(1) introductory text, and (a)(1)(ii), and by adding new paragraph (a)(3), to read as follows:

§ 52.33 Recovery of carrier-specific costs directly related to providing long-term number portability.

(a) Incumbent local exchange carriers may recover their carrier-specific costs directly related to providing long-term number portability by establishing in tariffs filed with the Federal Communications Commission a monthly number-portability charge, as specified in paragraph (a)(1) of this section, a number portability query-service charge, as specified in paragraph (a)(2) of this section, and a monthly number-portability query/administration charge, as specified in paragraph (a)(3) of this section.

(1) The monthly number-portability charge may take effect no earlier than February 1, 1999, on a date the incumbent local exchange carrier selects, and may end no later than 5 five years after the incumbent local exchange carrier’s monthly number-portability charge takes effect.

* * * * *

(ii) An incumbent local exchange carrier may assess on carriers that purchase the incumbent local exchange carrier’s switching ports as unbundled network elements under section 251 of the Communications Act, and/or Feature Group A access lines, and resellers of the incumbent local exchange carrier’s local service, the same charges as described in paragraph (a)(1)(i) of this section, as if the incumbent local exchange carrier were serving those carriers’ end users.

* * * * *

(3) An incumbent local exchange carrier serving an area outside the 100 largest metropolitan statistical areas that is not number-portability capable but that participates in an extended area service calling plan with any one of the 100 largest metropolitan statistical areas or with an adjacent number portability-capable local exchange carrier may assess each end user it serves one monthly number-portability query/administration charge per line to recover the costs of queries, as specified in paragraph (a)(2) of this section, and carrier-specific costs directly related to the carrier’s allocated share of the regional local number portability administrator’s costs, except that per-

line monthly number-portability query/administration charges shall be assigned as specified in paragraph (a)(1) of this section with respect to monthly number-portability charges.

(i) Such incumbent local exchange carriers may assess a separate monthly number-portability charge as specified in paragraph (a)(1) of this section but such charge may recover only the costs incurred to implement number portability functionality and shall not include costs recovered through the monthly number-portability query/administration charge.

(ii) The monthly number-portability query/administration charge may end no later than five years after the incumbent local exchange carrier's monthly number-portability query/administration charge takes effect. The monthly number-portability query/administration charge may be collected over a different five-year period than the monthly number-portability charge. These five-year periods may run either consecutively or concurrently, in whole or in part.

* * * * *

[FR Doc. 02-14775 Filed 6-12-02; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304-1304-01; I.D. 060702A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 ft (18.3 m) Length Overall Using Pot Gear in the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 ft (18.3 m) length overall (LOA) using pot gear in the Bering Sea and Aleutian Islands management area

(BSAI). This action is necessary to prevent exceeding the 2002 total allowable catch (TAC) of Pacific cod allocated to catcher vessels using hook-and-line or pot gear in this area.

Pursuant to 50 CFR 679.20(a)(7)(i)(C)(5)(i), Pacific cod catch by catcher vessels less than 60 ft (18.3 m) LOA using hook-and-line gear presently accrues to the allocation for catcher vessels using hook-and-line gear specified at 50 CFR 679.20(a)(7)(i)(C)(1)(ii).

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), June 11, 2002, until 2400 hrs, A.l.t., September 1, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2002 Pacific cod TAC allocated to catcher vessels less than 60 ft (18.3 m) LOA using hook-and-line or pot gear in the BSAI is 1,314 metric tons (mt) as established by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2002 Pacific cod TAC allocated as a directed fishing allowance to catcher vessels less than 60 ft (18.3 m) LOA using hook-and-line or pot gear in the BSAI will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 ft (18.3 m) LOA using pot gear in the BSAI. Directed fishing for Pacific cod by vessels 60 ft (18.3 m) LOA and greater using pot gear was closed on March 16, 2002, when catch amounts reached the A season allowance of Pacific cod

specified for these vessels. Pursuant to 50 CFR 679.20(a)(7)(i)(C)(4)(ii), at that time the allowance of Pacific cod for catcher vessels less than 60 ft (18.3 m) LOA using hook-and-line or pot gear became available to catch vessels less than 60 ft (18.3 m) LOA using pot gear. On September 1, 2002, the directed fishery for Pacific cod again opens for vessels using pot gear, which will include catcher vessels less than 60 ft (18.3 m) LOA. Pursuant to 50 CFR 679.20(a)(7)(i)(C)(5)(i), Pacific cod catch by catcher vessels less than 60 ft (18.3 m) LOA using hook-and-line gear presently accrues to the allocation for catcher vessels using hook-and-line gear specified at 50 CFR 679.20(a)(7)(i)(C)(1)(ii).

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the TAC, and therefore reduce the public's ability to use and enjoy the fishery resource.

The Assistant Administrator for fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 10, 2002.

John H. Dunnigan,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02-14957 Filed 6-10-02; 2:40 pm]

BILLING CODE 3510-22-S