

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INSIGHT PHONE OF KENTUCKY, LLC)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 2008-00335
)	
WINDSTREAM KENTUCKY EAST, LLC)	
AND)	
WINDSTREAM KENTUCKY WEST, LLC)	
)	
DEFENDANTS)	

ORDER

This case is before the Commission on the complaint of Insight Phone of Kentucky, LLC ("Insight") against Windstream Kentucky East, LLC and Windstream Kentucky West, LLC ("Windstream") alleging that a Windstream requirement that Insight provide a customer-assigned personal identification number in order to port a customer's number was unlawful and violated Federal Communications Commission ("FCC") number portability regulations.

Factual Background

The dispute centers on the ability of a Windstream customer to port his or her telephone number to another provider, namely Insight or Big River Telephone Company, LLC ("Big River"), and receive local telecommunications service from the new provider, but with the customer's old telephone number, a practice known as "porting." Under the 1996 Telecommunications Act and FCC rules and regulations, a customer's current telephone company is under an obligation to make the porting of

numbers as easy as possible. In this case, Insight and Big River allege that Windstream has taken unnecessary steps and requires unnecessary information that has unduly inhibited the ability of a customer to port his telephone number from Windstream to a competitor.

Prior to August 2008, in order to gain access to customer proprietary network information ("CPNI"), Insight was only required to represent to Windstream that a Windstream customer had authorized Insight to port the customer's number. Windstream, based on this representation, and as long as Insight had provided a signed blanket Letter of Agreement ("LOA"), was obligated to provide the customer's CPNI to Insight.

In August 2008, Windstream began requiring a requesting carrier to provide to Windstream the customer's account number and Windstream-assigned password before Windstream would port the number to Insight. Insight alleges that, prior to August 2008, Windstream only denied a *de minimus* portion of port requests, but after August 2008, Windstream required the additional information, close to 25 percent of the requests were rejected. Windstream asserts that it started to require the additional information in order to better safeguard customers' account information, including CPNI, and to guard against slamming.

Windstream created Windstream Express, a graphical user interface into which the account number and passcode are to be inputted in order to begin a number's porting and access the CPNI necessary to complete the process. Windstream Express rejects the port request if the account number and passcode are not entered. Windstream provides the account number and passcode only to its customer and not to

any requesting carrier. Thus, if Insight wants to port a Windstream customer, Insight must first acquire the customer's account number and passcode, one or both of which a customer frequently does not know or to which he does not have immediate access. A customer may obtain his account number from his monthly billing invoice or by contacting Windstream directly. Passcodes are assigned at the time a customer enrolls in online billing, or were made available on the April 2009 billing if the customer was an existing online billing customer. If a customer cannot find or remember his passcode, a call to Windstream is necessary.

On May 20, 2010, the FCC issued an Order in which it prohibited a telephone company from requiring company-generated passcodes in order to perform a port.¹ The FCC also standardized the information that a telephone company may require when a port is being requested. This FCC Order directly impacts the issues in this case.

Discussion

This dispute centers around Local Number Portability ("LNP"). LNP is defined as:

[T]he 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.²

The purpose of number portability is to promote competition in the telecommunications marketplace. Regarding LNP, the FCC has stated that:

¹ *In the Matters of: Local Number Portability Porting Intervals and Validation Requirements*, WC Docket No. 07-244 and *Telephone Number Portability*, CC Docket No. 95-116 (Report and Order issued May 20, 2010) ("Number Portability Order").

² 47 U.S.C. § 153(30), 47 C.F.R. § 52.21(1).

[T]he ability to transfer a familiar number to a new carrier enhances competition by enabling a consumer to choose a service provider based on his or her needs, without being deterred by the inconveniences of having to change his or her phone number.³

In order to increase the convenience of number porting, the FCC requires that ports of residential numbers be performed within one business day of the request being received.

Passcodes

In the *Number Portability Order*, the FCC standardized the information that a carrier may require from a requesting carrier in order to perform a port. The FCC mandated that only 14 fields of information are necessary for performing a simple port and directed all carriers to use the 14 fields. The 14 information fields are:

1. Ported Telephone Number
2. Account Number
3. Zip Code
4. Company Code
5. New Network Service Provider
6. Desired Due Date
7. Purchase Order Number
8. Version
9. Number Portability Direction Indicator
10. Customer Carrier Name Abbreviation
11. Requisition Type and Status
12. Activity
13. Telephone Number (initiator).
14. Agency Authority Status.⁴

The FCC specifically rejected the use of a company-assigned passcode or PIN as a field to be required in applying for a number port. The FCC found that the use of a company-assigned passcode “would delay the porting process by requiring customers

³ *Number Portability Order* at ¶ 1.

⁴ *Id.* at ¶ 9.

to contact their current service providers for this information.”⁵ The FCC was concerned that this “would add a layer of frustration and complexity to the number porting process, with anticompetitive effects.”⁶ The FCC concluded that the passcode could not be required for a port “unless it had been requested and assigned by the end user.”⁷

Applied to the case at bar, the *Number Portability Order* clearly prohibits Windstream from requiring a requesting carrier to provide a company-assigned passcode to Windstream in order to begin the porting process. Windstream does not allege, nor does the record reflect, that the passcodes are generated at the customer’s request. Windstream unilaterally assigned the passcodes without customer consent or request. Therefore, the Commission finds that Windstream is prohibited from requiring Windstream-issued passcodes when a port is being requested.

Account Numbers

The FCC did include “account number” in its list of acceptable information fields that a telephone company may require for a port request. Insight argues that, because customers do not often know their account numbers, the FCC’s ruling also applies to requiring the provision of account numbers before CPNI is released. Insight asserts that retrieving an account number can be or is as difficult as retrieving a passcode and, therefore, should not be required in order to obtain a customer’s CPNI.

⁵ Id. at ¶ 16.

⁶ Id.

⁷ Id.

Windstream disputes Insight's interpretation of the FCC's Order. Windstream argues that Insight misunderstands the *Number Portability Order* and that the FCC explicitly allowed the use of an account number to verify a port request.

Regarding account numbers, the *Number Portability Order* states, in pertinent part that:

[The *Number Portability Order*] does not address, nor do we address in this Order, what information the current service provider can require from a new service provider to verify the existence of a port request before it will disclose a CSR. However, as we have stated in the porting interval context, and find equally applicable here, "limiting carriers to requiring a minimum but reasonable amount of information . . . will ensure that customers can port their numbers without impairment of the convenience of switching providers due to delays in the process that can result when additional information is required."⁸

A CSR is a "customer service record" and is the customer's information a service provider maintains in its database, and contains the information and CPNI that a requesting carrier would require in order to port that number. The CSR differs from a port request in that a CSR is *a priori* a port request—a requesting carrier cannot perform the port without the CSR. Windstream, based upon the *Number Portability Order*, contends that it does not have to release the CSR unless or until a requesting carrier provides, *inter alia*, the customer's account number. Whereas Insight contends that it does not have to provide the account number before receiving the CSR.

⁸ *Number Portability Order* at ¶ 21 quoting, *Telephone Number Requirements for IP-Enabled Services Providers; Local Number Portability Porting Interval and Validation Requirements; IP-Enabled Services; Telephone Number Portability; Numbering Resource Optimization*, WC Docket Nos. 07-243, 07-244, CC Docket Nos. 95-116, 99-200, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, 22 FCC Rcd at 19554, ¶ 43.

The FCC prohibits the use of company-assigned passcodes for verifying either a port request or a request for a CSR.⁹ The FCC, however, declined to establish other minimal informational guidelines for the release of a CSR. The language in the *Number Portability Order* implies that the FCC regarded the fourteen informational fields it established to verify port requests to be satisfactory to apply to verifying the request for a CSR. An account number differs from a passcode and is more easily obtainable than a passcode (the account number appears on each monthly bill whereas the passcode appears only once and can be found only if the customer can retrieve that one bill or contacts Windstream directly). Moreover, given the opportunity, the FCC declined to prohibit a telephone company from requiring an account number be provided when releasing a CSR. Accordingly, the Commission finds for Windstream on this issue and will allow Windstream to require the provision of an account number for verifying both a port request and the release of a CSR.

Account Freezes

Windstream asserts that it does provide Insight with information regarding customer freezes on customers' accounts when Insight submits a port request. The Commission, therefore, denies this prayer for relief as moot providing that Windstream continues to provide customer freeze information to a requesting carrier when a port request has been made.

⁹ "However, carrier-assigned passcodes may not be required in order to obtain a CSR." *Number Portability Order* at ¶ 21, n. 74.

CONCLUSION

Based on the foregoing, the Commission finds that: Windstream must follow the FCC's direction in the *Number Portability Order* with regard to company-assigned passcodes; finds that the use of the account number in obtaining the CSR information is allowable; and that Windstream must continue to notify CLECs immediately in the event of a customer account freeze. The Commission further finds that Windstream must include an insert or other form of notice within each customer's billing statement that fully sets out the contents of the FCC's consumer facts regarding number portability found at: <http://transition.fcc.gov/cgb/consumerfacts/numbport.pdf>. The billing insert or other form of customer notification must be provided to each customer at least once within the next six (6) billing cycles.

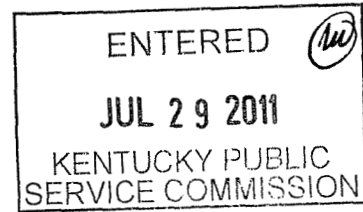
IT IS THEREFORE ORDERED that:

1. Insight's request that Windstream be ordered to stop requiring company-assigned pass codes when submitting a port request is granted.
2. Insight's request that Windstream be ordered to stop requiring account numbers when submitting a port request is denied.
3. Insight's request that Windstream be ordered to provide information regarding account freezes upon the submission of a port request is denied as moot because Windstream appears to have satisfied this claim.
4. Windstream shall include an insert or other form of notice within each customer's billing statement that fully sets out the contents of the FCC's consumer facts regarding number portability found at: <http://transition.fcc.gov/cgb/consumerfacts>


/numbport.pdf. The billing insert or other form of customer notification shall be provided to each customer at least once within the next six (6) billing cycles.

5. This is a final and appealable order.

By the Commission



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