**Before the**

**Federal Communications Commission**

**Washington, D.C. 20554**

In the Matter of )

)

2018 Biennial Review of ) WC Docket No. 18-378

)

Telecommunications Regulations )

**REPLY COMMENTS OF THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The Pennsylvania Public Utility Commission (Pa. PUC) files these Reply Comments with the Federal Communications Commission (Commission) in the above-captioned docket in response to the NCTA’s initial comments requesting the Commission to repeal Section 52.15(g)(3)(iv)(C) of its rules, which requires interconnected Voice-over-Internet Protocol (VoIP) providers to provide state commissions a 30-day notification before applying for numbering resources from the applicable numbering administrator.[[1]](#footnote-1) NCTA’s comments were filed in response to the 2018 Biennial Review Public Notice seeking comment on telecommunications rules that may be eliminated or modified if no longer necessary or in the public interest.[[2]](#footnote-2)

The Pa. PUC appreciates an opportunity to file these Reply Comments. As an initial matter, these Reply Comments should not be construed as binding on the Pa. PUC in any matter pending before the Pa. PUC. Moreover, these replies could change in response to later events, including *Ex Parte* filings or the review of other filed Reply Comments and legal or regulatory developments at the state or federal level.

**Discussion**

NCTA asserts that the 30-day state notification requirement is unnecessary and should be eliminated because no numbering exhaust issues have arisen related to interconnected VoIP providers’ numbering requests and because potential number exhaust is a function of the numbering resources requested in aggregate by all service providers, irrespective of technology. Additionally, NCTA asserts that states already have access to interconnected VoIP providers’ numbering applications pursuant to Rule 52.15(g)(6). Essentially, NCTA is complaining about the 30-day state numbering notification requirement because of its belief that is unnecessary to prevent

numbering exhaust and does not provide state commissions with any additional information not already available to them and is anticompetitive because it does not apply to non-VoIP providers.

The Commission should not eliminate this VoIP provider filing requirement as it enables state commissions to maintain a more accurate assessment of number utilization and conservation and to better anticipate and limit area code exhausts. The Pa. PUC also continues to support VoIP providers’ being required to provide accurate contact information because it results in states being able to be aware of VoIP providers’ presence in the states, including their access to numbering within each state’s geographic boundaries.

The Pa. PUC does not exercise traditional regulatory jurisdiction over interconnected VoIP providers that provide retail services.[[3]](#footnote-3) Having accurate provider contact information upfront, however, ensures that state commissions are able to adequately monitor the numbering resources that are utilized by VoIP providers offering service within their respective geographic areas without adding any regulatory burden on VoIP providers associated with traditional regulation. This requirement also aids the states in knowing which VoIP providers are operating within their boundaries and provides the contact information necessary to verify compliance with lawful state regulation regarding, for example, the provision of enhanced 911 service, payment of telecommunications relay service support fees and state universal service fees.[[4]](#footnote-4)

To ensure that the Pa. PUC has access to accurate provider contact information and to avoid disruption to the orderly and predictable administration of numbering resources, the FCC should not eliminate any rule that assists the states in monitoring VoIP providers’ access to these scarce resources. Thus, VoIP providers should continue to be required to file 30-day notices with the state commissions prior to filing a Part 1 request for number resources in each respective geographic area.

NCTA intimates that requiring VoIP providers to file 30-day notices is discriminatory, inequitable and unfair. However, the Pa. PUC contends that having VoIP providers file 30-day notices to the states prior to filing and requesting numbering resources from the North American Numbering Plan Administrator is competitively neutral.

Section 253 of TA-96, 47 U.S.C. § 253(c), requires that any requirement be competitively-neutral, and the same rules should apply to all telecommunications service providers regardless of technology used. Because state commissions generally do not regulate the entry of VoIP providers offering retail services within their respective states, the 30-day notice does no more than place VoIP providers on the same footing as non-VoIP providers with respect to furnishing the states with adequate notice of entities operating within their boundaries utilizing numbering resources.

The 30-date notice requirement is no more than a minimal level of regulatory accountability for any entity operating within a state and using regulatory resources. It simply puts carriers and other communications services providers using the same numbering resources while providing service through different technology on the same footing as common carriers. It is neither discriminatory nor inequitable.

Absent the Commission’s finally classifying VoIP providers as offering “telecommunications service” under Title II of the Communications Act of 1934, as amended, which would clarify the states’ regulatory authority over VoIP providers, VoIP providers should continue to be required to submit 30-day notices to the states prior to obtaining numbering resources as a condition of their limited jurisdictional status. The 30-day notice requirement addresses a regulatory gap resulting from the limitation on state certification requirements for entities claiming VoIP status while not violating barriers to traditional state regulation. Otherwise, the requests from VoIP providers operating within state boundaries without any notice to the states greatly inhibits not just state number oversight and conservation but also a fundamental opportunity to know what entities are providing communications services within state boundaries.

The Pa. PUC asserts that VoIP providers’ submission of this minimal contact information to state commissions plays a vital role with the states, accommodating legitimate state interests in ensuring the continuity of scarce numbering resources and the safety of customer communications within their boundaries without burdening VoIP providers of retail services with traditional state public utility regulation.

Furthermore, both Pennsylvania and other states have legitimate public safety interests in possessing actual knowledge what NPA-NXX numbering resources are utilized by what provider. VoIP providers are under federal and state obligations regarding 911/E911 emergency calling and access capabilities where the automatic location identification and reaching the appropriate public safety answering point are implicated. For example, the Pa. PUC simple registration form for VoIP retail services providers accessing numbering resources within Pennsylvania requests that there must be appropriate contact with 911 coordinators within the Commonwealth ensuring the proper provision of 911/E911 services.

Maintaining the 30-day notice requirement provides access to scarce numbering resources on a level playing field, while promoting number conservation and technological/competitive neutrality.The 30-day notice requirement is not onerous, simply puts VoIP providers on the same footing as other providers including traditional common carriers and ensures states’ knowledge of those service providers requesting

numbering resources.

**Conclusion**

Carriers using Internet Protocol, VoIP, or any other technological innovation to provide service should not impede predictable and uniform numbering system administration. The Pa. PUC continues to support the requirement that VoIP providers submit to the states a 30-day notice of the intent to request numbering resources register *prior* to securing numbers. The 30-day notice filing provide state commissions with more accurate assessment of number assignment and utilization of scarce numbering resources. It also provides the states with accurate contact information from unregistered and non-traditionally regulated entities providing service within their respective borders. If common carriers and other communications services providers have the privilege and are at liberty to obtain numbering resources, they should be required to comply with competitively-neutral requirements. In balancing the benefits that inure to the states from this very limited notice requirement against the complaints raised by the providers subject to it, the Pa. PUC contends that promotion of the public interest — including parameters of public safety —clearly weighs in favor of maintaining the requirement.

The Pa. PUC appreciates the opportunity to file these Reply Comments.

Respectfully submitted,

THE COMMONWEALTH OF PENNSYLVANIA

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1. *See* 47 C.F.R. § 52.15(g)(3)(iv)(C). [↑](#footnote-ref-1)
2. *See* FCC Bureaus and Offices Seek Public Comment in 2018 Biennial Review of Telecommunications Regulations, CG Docket No. 18-375, *et al*., Public Notice, DA 18-1260 (WCB rel. Dec. 17, 2018). (2018 Biennial Review Public Notice). [↑](#footnote-ref-2)
3. *See Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, 19 FCC Rcd 22404 (2004) (*Vonage Preemption Order*), *aff’d, Minn. Pub. Utils. Comm’n v. FCC*, 483 F.3d 570 (8th Cir. 2007)*; see also Charter Advanced Services v. Lange*, 903 F.3d 715 ([8th Cir. 2018)](https://advance.lexis.com/document/documentlink/?pdmfid=1000516&crid=30990747-f636-48ed-83f0-864e5cf37d58&pddocfullpath=%2Fshared%2Fdocument%2Fcases%2Furn%3AcontentItem%3A5TWR-25W1-JFDC-X3Y8-00000-00&pdcontentcomponentid=6392&pddoctitle=Charter+Advanced+Servs.+(MN)%2C+LLC+v.+Lange%2C+2018+U.S.+App.+LEXIS+34238+(8th+Cir.+Minn.%2C+Dec.+4%2C+2018)&pdproductcontenttypeid=urn%3Apct%3A30&pdiskwicview=false&ecomp=7311k&prid=e6c20e6f-9af7-4015-9d28-58df66ab7788). *Also see* Sections 2251.2 and 2251.4 of the Pennsylvania Voice-Over-Internet Protocol Freedom Act, 73 P.S. §§ 2251.2 and 2251.4 (describing legislative intent to minimize inhibitions to new VoIP technological developments arising from the “imposition of traditional State entry and rate regulation on voice-over-Internet-protocol and Internet protocol-enabled services” and prohibiting the regulation of VoIP or Internet Protocol enabled rates, terms and conditions of service). [↑](#footnote-ref-3)
4. *See* Section 2251.6 of the VoIP Freedom Act, 73 P.S. § 2251.6 (preserving enumerated Pa. PUC powers and duties over public safety (e.g., 911/E911), intercarrier compensation, telecommunications relay services, universal service fund mechanisms, and protected services provided under Pa. PUC-approved tariffs). [↑](#footnote-ref-4)