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FEDERAL COMMUNICATIONS COMMISSION
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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of
Administration of the
North American Numbering Plan

CC Docket No. 92-237

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NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS'
REQUEST FOR CLARIFICATION

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REQUEST FOR CLARIFICATION

Pursuant to Sections 1.41, 1.49, 1.401, and 1.429 of the Federal Communications Commission's ("FCC" or "Commission") Rules of Practice and Procedure, 47 C.F.R. Sections 1.41, 1.49, 1.401, and 1.429 (1994), the National Association of Regulatory Utility Commissioners ("NARUC") respectfully files this request for clarification of the FCC's July 13, 1995 adopted and released *Report and Order*, 60 FR 38737 [July 28, 1995], Release Number FCC 95-283, in the above captioned proceeding.

I. INTEREST OF NARUC

NARUC is a quasi-governmental nonprofit organization founded in 1889. Members include those governmental bodies responsible for regulating carriers and utilities in all fifty States, the District of Columbia, Puerto Rico, and the Virgin Islands. NARUC's mission is to improve the quality and effectiveness of public utility regulation in America. Specifically, NARUC is composed of, inter alia, State and territorial officials charged with regulating telecommunications common carriers within their respective borders.

These officials have the obligation to assure that communications services and facilities required by the public convenience and necessity are established, and that service is furnished at just and reasonable rates.

The serious issues surrounding the current North American Numbering Plan's ("NANP") future implementation instigated the underlying NARUC request for a Notice of Inquiry that formed the basis for the FCC's July 1995 order. Many aspects of NANP implementation affect NARUC members' ability to adhere to their respective mandates to serve the public interest.

II. BACKGROUND

The NANP is the basic numbering scheme that permits interoperable telecommunications service within the United States, Canada, Bermuda and most of the Caribbean. The plan historically has been developed and administered by the wireline telephone industry.

In September 1991, NARUC petitioned the FCC to begin a broad inquiry into administration of the NANP, suggesting, inter alia, that, although Bellcore does an excellent job as administrator, because of the inherent conflict of interest posed by the need for numbering resources by Bellcore's owners and their competitors, the administration of the NANP should be transferred to a neutral third party.

On July 13, 1995, the FCC released the *Report and Order* that is the subject of the instant request for clarification.

In response to the Report, NARUC passed a resolution noting that "[n]othing in the new NANP model prevents state regulatory commissions from continuing their oversight and decisions in the implementation of new Number Plan Area codes" and specifically commending "...the FCC for establishing a new NANP model that recognizes the changing telecommunications environment and the states' interest in the administration and oversight of numbering resources."

III. CLARIFICATION REQUEST

As the Commission acknowledges in paragraph 77, of the *Report and Order*, "States have a role and certain interests in the regulation of numbering resources and... [the FCC]..need not preempt states in order to take action with respect to numbering." In the same paragraph, the FCC also recognizes, by way of exception, that "historically" States have played a significant role in "...matters involving NPA exhaust and CO code administration." Indeed, that paragraph specifies that the only real change, at least with regard to NPA changes, is that the new NANP administrator, rather than the Local Exchange Carrier ("LEC"), will submit a proposal for a change. "State regulators will continue to hold hearings and adopt the final NPA relief plans as they see fit."

However, some could argue that certain language in the next paragraph of the order seems to inject some uncertainty as to the State role with regard to CO code administration.

Specifically, in Paragraph 78, the order states:

We do not agree, however, that this necessarily compels the conclusion that CO code administration, as opposed to regulatory oversight, must be performed at the local level by state regulatory agencies or local third party entities. To continue decentralized control over CO code administration would be inefficient. Having state regulators, or designated third parties in each state, administer CO codes could create fifty-one different administrators in the United States.

NARUC believes that, taken in context, the FCC meant for the discussion to suggest continued state involvement with both NPA exhaust and CO code administration issues.

Indeed, the quoted language suggests that the cited LEC arguments concerning the need for State oversight to address local problems do not require the FCC to defer a decision on transferring CO code administration to the new NANP administrator. Indeed, States' existing authority to engage in "regulatory oversight" of CO code implementation matters, as opposed to LEC's authority to "administer" CO Codes, seems unaffected by the FCC's order.

This interpretation is consistent with the FCC's (i) earlier quoted Paragraph 77 statement that it "need not preempt states in order to take action with respect to numbering", (ii) discussion of the comments in Paragraph 72, that points out that CO code administration involves NPA relief in addition to code assignment - an area where the FCC has clearly acknowledged the State role, and (iii) the FCC's acknowledgement, also in paragraph 77, of the State's historical role in CO administration.

In prior resolutions, NARUC has always asserted that State Commissions should continue to provide direction to the parties involved in NPA code splits, boundary realignments and overlays based upon each State's consideration and determination of local circumstances, including the impact on competition - suggesting that State commissions are uniquely positioned to understand, judge and determine appropriate dialing pattern changes and other changes that may be required concerning allocation of local numbering resources.

Copies of some of the relevant resolutions are attached as Appendix A.

If NARUC has correctly understood the FCC's intent with regard to State authority and CO administration, the primary difference between CO number assignment today and CO number assignment under the FCC's new administration plan is that the traditional CO code assignment functions performed by the LECs will now be performed by the NANP administrator. However, those functions would still be subject to the oversight of the appropriate State regulatory agency.

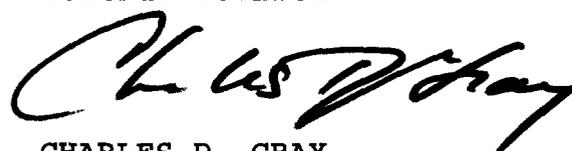
Accordingly, NARUC respectfully requests that the FCC clarify that the July Report and Order was not intended to displace States' traditional oversight authority over CO code assignment issues.

IV. CONCLUSION:

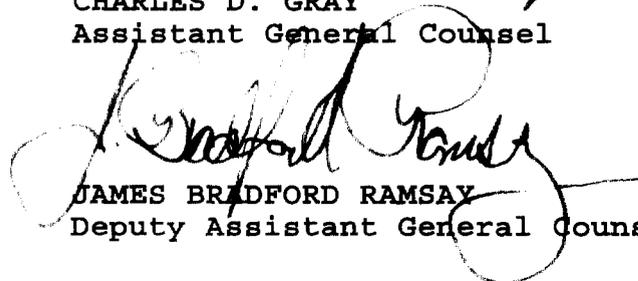
NARUC respectfully requests that the FCC provide the clarifications requested, supra.


Respectfully submitted,

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CHARLES D. GRAY
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August 27, 1995

In the Matter of Administration of the
North American Numbering Plan

CC Docket No. 92-237

APPENDIX A

NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONER'S

JULY 1995

RESOLUTION CONCERNING THE FCC'S REPORT AND ORDER ON THE
NORTH AMERICAN NUMBERING PLAN

and

RESOLUTION ON THE FCC'S NOTICE OF PROPOSED RULEMAKING
ON NUMBER PORTABILITY

and

NOVEMBER 1994

RESOLUTION CONCERNING NUMBERING PLAN AREA CODE
OVERLAYS, BOUNDARY REALIGNMENTS AND SPLITS

**Concerning the FCC's Report and Order On
the North American Numbering Plan**

WHEREAS, On July 13, 1995, the Federal Communications Commission (FCC) released a Report and Order (Report) in CC Docket No. 92-237, instituting a new model for the administration of the North American Numbering Plan (NANP); and

WHEREAS, Under the new model, the FCC will set broad policy objectives for number administration, be the final arbitrator of domestic numbering disputes, and work closely with industry, consumers, states, and other member countries in the NANP to ensure timely and fair number administration; and

WHEREAS, In the Report, the FCC established a North American Numbering Council (NANC), with broad membership including the industry, consumers, state regulators and other NANP member countries, that will develop guidelines for number administration, provide guidance to the NANP administrator, serve as an initial forum for number disputes and advise and make recommendations, reached through consensus, to the FCC on numbering issues; and

WHEREAS, The new NANP model included an independent non-governmental NANP administrator that is not aligned with any particular telecommunications industry segment and that is responsible for processing number resource applications and maintaining administrative numbering databases; and

WHEREAS, Nothing in the new NANP model prevents state regulatory commissions from continuing their oversight and decisions in the implementation of new Number Plan Area codes; and

WHEREAS, The FCC concluded that the gross revenues of each communications provider should be used to compute each provider's contribution to the funding of the new NANP administrator; and

WHEREAS, The NARUC has supported transferring administration of the NANP to a neutral third party and allocating costs and cost recovery associated with telephone number administration to those using the resources; now, therefore, be it

RESOLVED, That the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC), convened in its 1995 Summer Meeting in San Francisco, California, commends the FCC for establishing a new NANP model that recognizes the changing telecommunications environment and the states' interest in the administration and oversight of numbering resources; and be it further

RESOLVED, That, as part of its recommendations to the FCC about implementation of the new NANP model, the North American Numbering Council should include recommendations on how to educate the public about the numbering plan, inform about numbering plan processes, and make numbering issue deliberations as publicly available as possible, utilizing electronic posting, public bulletin boards, etc.

**Resolution on the FCC's Notice of Proposed Rulemaking
On Number Portability**

WHEREAS, The Federal Communications Commission (FCC), in a Notice of Proposed Rulemaking (NPRM) in CC Docket No. 95-116, RM 8535, released on July 13, 1995, proposed to develop rules concerning telephone number portability; and

WHEREAS, The FCC tentatively concluded that the portability of geographic telephone numbers (those with areas codes that represent specific geographic areas) benefits consumers and will contribute to the development of competition among alternative providers of local telephone and other telecommunications services; and

WHEREAS, The FCC tentatively concluded that it should assume a leadership role in developing a national number portability policy due to the impact of telephone number portability on interstate telecommunications, while stating that state regulators have legitimate interests in the development of number portability;

WHEREAS, The FCC also tentatively concluded that there is a federal interest in these areas because deployment of different number portability solutions across the country would have significant impact on the provision of interstate telecommunications services; and

WHEREAS, The FCC sought comment about the costs (both monetary and nonmonetary) of making geographic telephone numbers portable among service providers, services, or locations: (1) the feasibility, limitations and cost of longer-term number portability solutions; (2) the feasibility, limitations, and costs of interim number portability measures; (3) issues associated with a transitions to a permanent number portability environment; (4) allocation of number portability costs between federal and state jurisdictions; and

WHEREAS, The FCC tentatively concluded that service provider portability of 900 and 500 numbers is beneficial for customers of those services and invited comments on the costs of deployment and other implementation issues; and

WHEREAS, State regulators are currently moving forward with service provider number portability evaluation and solutions, as a part of the emergence of local exchange competition, that may not conflict with federal interests; now, therefore, be it

RESOLVED, That the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC), convened in its 1995 Summer Meeting in San Francisco, California, supports the notion that more information (both monetary and nonmonetary) is necessary about the development and implementation of the different types of telephone number portability, including service provider portability of 900 and 500 numbers, as number portability is an integral element of local exchange competition; and be it further

RESOLVED, That the NARUC recommends State Commissions be allowed and encouraged to move forward with their existing and future workshops, trials and tests of telephone number portability as one means of gathering timely information about the development and implementation of number portability; and be it further

RESOLVED, That state implementation of service provider number portability solutions, on a local, state or even regional basis, should not be discouraged in developing telephone number portability, given the commonality of industry participants and vendors in ongoing trials and tests in different states; and be it further

RESOLVED, That the FCC use the information gathered in the NPRM comments and from the state workshops, trials and tests to establish nationwide policy guidelines concerning service provider, location and service telephone number portability, recognizing and accommodating that some states may have implemented different service provider number portability solutions that are not inconsistent with nationwide number portability policy; and be it further

RESOLVED, That the States that are conducting workshops, trials and tests be encouraged to share their results through the NARUC Subcommittee on Communications and the Michigan BBS; and be it further

RESOLVED, That the NARUC General Counsel be directed to file comments and take any appropriate actions to further the intent of this resolution.

Sponsored by the Communications Committee - Adopted July 26, 1995

**Resolution Concerning Numbering Plan Area Code
Overlays, Boundary Realignment and Splits**

WHEREAS, State Commissions have historically had input into Numbering Plan Area (NPA) Code overlays, boundary realignments and splits because of the intensely localized impact of such actions, the desire for local proceedings involving the affected parties, and the States' undeniable parens patriae concerns; and

WHEREAS, On July 29, 1994, Ameritech Illinois (Ameritech) filed a Petition for Approval of NPA Relief Plan for 708 Area Code by Establishing a 630 Area Code with the Illinois Commerce Commission; and

WHEREAS, On August 4, 1994, Mobile Media Communications, Inc., Page Mart, Inc., and Paging Network, Inc., (Petitioners) filed a Request with the Federal Communications Commission (FCC) for Declaratory Ruling and Interlocutory Order on an Ameritech Proposed 708 Relief Plan and 630 Numbering Plan Area Code; and

WHEREAS, Petitioners asked the FCC to issue a declaratory ruling that the Proposed 708 Relief Plan take-back of telephone numbers assigned to the petitioners on behalf of their customers and the simultaneous implementation of the proposed new 630 NPA code by Ameritech constituted unjust and unreasonable practices in violation of Section 201(b) of the Communications Act and were unreasonably discriminatory in violation of Section 202(a) of the Act; and

WHEREAS, Ameritech, as Central Office Code Administrator for the State of Illinois, has recently reached a non-unanimous settlement on an industry compromise relief plan for the 708 NPA

code and the introduction of the 630 NPA code that would overlay the geographic area of the 708 and 312 NPA codes in the Chicago area; and

WHEREAS, The compromise 708 NPA code relief plan includes: an all-service overlay; no forced number takebacks but limited voluntary givebacks; assignment to wireless carriers of only 630 and 312 NXXs; assignment to other carriers of up to 10-708 NXXs each; and eventual mandatory 11-digit dialing for the 708 and 630 NPAs; and

WHEREAS, There is opposition to the proposed settlement by the City of Chicago and other parties, and the Illinois Commerce Commission has scheduled a second hearing on the numbering relief plan on November 15, 1994; and

WHEREAS, Ameritech's original 630 NPA code overlay plan has some similarities with the initial implementation proposals by Pacific Bell for a new NPA code (562) to overlay the 310 NPA code in the Los Angeles area, and NPA code splits, boundary realignments, and overlay solutions are and will continue to be required in other areas as NPA code exhaustion occurs; and

WHEREAS, NPA overlays, boundary realignments and splits may involve many state specific variations in local dialing patterns that may be responsive to local geographic circumstances or certain local customer expectations; and

WHEREAS, State commissions are uniquely positioned to understand, judge and determine local circumstances and customer expectations; and

WHEREAS, Any FCC decision on Petitioners' requests could also impact any future NPA code split, boundary realignment or overlay implementation proposals; be it, therefore

RESOLVED, That the Executive Committee of the National Association of Regulatory Commissioners (NARUC), convened at its 106th Annual Convention in Reno, Nevada, recommends that State Commissions be allowed to continue their roles in oversight of NPA code splits, boundary realignments, and overlays; and be it further

RESOLVED, That State Commissions should continue to provide direction to the parties involved in NPA code splits, boundary realignments and overlays based upon each State's consideration and determination of local circumstances, including the impact on competition; and be it further

RESOLVED, That state commissions are uniquely positioned to understand, judge and determine appropriate dialing pattern changes and other changes that may be required with NPA overlay, boundary realignments and splits; and be it further

RESOLVED, That, should the FCC feel compelled to take some action in this matter, the action be limited to broad policy statements, leaving the details of NPA code splits, boundary realignments, and overlays to the State Commissions; and, be it further

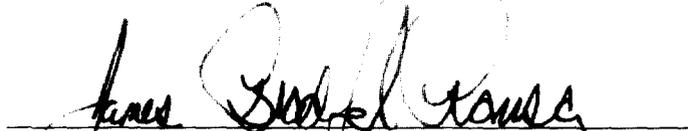
RESOLVED, That the NARUC General Counsel be directed to file and take any appropriate action to further the intent of this resolution. Sponsored by the Committee on Communications and Adopted November 16, 1994

In the Matter of Administration of the
North American Numbering Plan

CC Docket No. 92-237

CERTIFICATE OF SERVICE

I, JAMES BRADFORD RAMSAY, certify that a copy of the foregoing
was served on all parties on the attached Service List.

A handwritten signature in black ink, appearing to read "James Bradford Ramsay", is written over a horizontal line.

James Bradford Ramsay
Deputy Assistant General Counsel

National Association of
Regulatory Utility Commissioners

August 28, 1995