

duplication of the specific mnemonic representation, it does not foreclose the use of the number.

Number duplication has other negative results. Besides creating caller confusion, it promotes waste of a limited resource and could lead to perpetual exhaust of toll free numbers. The tying up of 888 numbers and those of future codes simply to preclude their use by others with a legitimate need for numbers will deplete a significant portion of the 888 resource. As noted previously, current estimates place the desire for duplicate numbers at two million. The actual demand could be higher. If two million numbers are eliminated from the source pool of 7.46 million numbers when the 888 code is opened, the potential to serve an additional 2 million subscribers is lost. There are several mnemonic representations that may be created from a single toll free number. The amount of usable numbers in each toll free code would therefore be decreased if these numbers are taken out of circulation. Additionally, as each subsequent code is opened, the possibility exists to create new mnemonic representations not in use today with 800 numbers. As the list of vanity numbers grows with successive codes, the potential for precluding the use of more numbers increases. The two million number projected for 888 could be significantly higher for future codes, leading to perpetual exhaust of toll free numbers.

If replication is sanctioned, the SCP owner/operators will be forced to house records for replicated 888 numbers in their databases. Each record stored in a database utilizes database memory. When records are stored in a database, they

typically generate queries which include the cost of the memory capacity required to house that record. However, if LECs are forced to increase database storage capacity use without increased query growth to fund capacity expansion, the cost of storing records increases, while recovery for database memory capacity expansion decreases. Duplication could lead to a significant number of records sitting in a LEC database and not generating any queries.

The ratio of queries to records is already expected to decrease as the market for toll free numbers for business use matures and growth in market segments that typically generate fewer queries such as paging and residential subscribers increases. The practice of providing 800 numbers as a promotional gimmick to subscribers PICed to a specific carrier has shown that query volumes have not proportionately increased for that 800 service provider. However, the database memory consumption has increased as a result of having to house those records in the database.

Number duplication should not be allowed under any circumstances. If replication is allowed, mismanagement and waste of a precious resource will occur. The customer education process will be less effective and customer confusion will be created. The database storage costs for both the local exchange and interexchange carrier communities will increase. The interests of current subscribers and the calling public will be served best by placing the matching 888 numbers of high volume 800 numbers in an unavailable status in the SMS/800 until the calling public has been educated to the fact that 888 numbers are not interchangeable with

800 numbers. Protection of mnemonic vanity numbers can be effectively achieved by a Commission ruling that forecloses the use of mnemonic representations previously registered with the Commission.

B. Assignment of 888 Toll Free Numbers Based on SIC Code

The Commission has proposed using Standard Industrial Classification (“SIC”) codes to eliminate the possibility that competitors in a given industry could be assigned corresponding 800 and 888 toll free numbers.¹² U S WEST does not support SIC code use for this purpose. In its NPRM, the Commission proposes that if an 888 applicant and the holder of the equivalent 800 number have the same SIC code they are competitors, and that the 888 applicant should therefore be refused the equivalent 888 number.¹³

Today, the Industry Guidelines state that “[n]on-proprietary [information] has been identified as: the 800 number, the RESP ORG identification, the status of the 800 number or Customer record in SMS/800, and the associated effective date and time of the Customer record.”¹⁴

If individual RespOrgs are to be involved in the monitoring and enforcement of a system using SIC codes, the code for any specific toll free number would have to

¹² Id. ¶¶ 44-45.

¹³ Id. ¶ 44.

¹⁴ See Issue 4, Industry Guidelines for 800 Number Administration, effective June 8, 1995, Section 1.2.

be viewable by all RespOrgs. Introduction of a SIC code would introduce an element of information on the SMS/800 customer record that has heretofore been considered proprietary. With today's technology, RespOrgs can have computer programs developed that "poll" the SMS/800 in order to provide an overall database view of market share. If SIC codes were added to the information in the SMS/800 customer record, additional market-sensitive information relative to the RespOrg and/or service provider would be generally available. Implementation of a SIC code field in SMS/800 would require the ability of the SMS/800 system to recognize seven digit, four digit, or any other variation of competitively sensitive numbers. This would require a significant amount of programming work. In addition, the SMS/800 system would probably not be able to verify the correctness of SIC codes and the use of multiple SIC codes by vertically integrated companies.

SIC code definitions are general, at best. The use of such general classifications to eliminate potential users of toll free numbers may inappropriately preclude the legitimate use of a number by a non-competing business. The Commission should not use SIC codes in the assignment of 888 numbers.

C. Identifying High Traffic Numbers Would Require
SMS/800 System Changes

In its NPRM, the Commission seeks comments regarding the ability of SMS/800 to identify 800 numbers that experience high volumes of traffic.¹⁵ The

¹⁵ NPRM ¶ 47.

purpose of this is to address the situation where a potential subscriber of a new toll free number would be able to find out if the same seven-digit number exists as a high volume number under another toll free code. The potential subscriber could presumably decide at that time whether or not they want to use that number and risk receiving (and being billed for) mis-dialed calls that should have gone to the other number. The subscriber could also be in a position to work out a billing dispute process with their carrier (RespOrg) prior to turning up the new number.

The SMT believes that such a coding process could be developed in the SMS/800 (no such process exists today). The method for marking the number in the SMS/800 record could be discussed in the Ordering and Billing Forum or the SMS/800 Number Administration Committee (“SNAC”) industry forum and a procedure agreed upon. Optimally, a field that already exists on the SMS/800 record could be utilized and, therefore, not require extensive SMS/800 development. If development is required, it would be defined and prioritized by the SNAC and implemented based on the normal SMS/800 development schedule.

This process can be successful only where RespOrgs agree to put the information in the SMS record and further agree that the field is not proprietary. If the field is considered proprietary, then every interested subscriber would have to find and contact the RespOrg for each number of interest to determine if the number falls in the high volume category. This could prove to be very cumbersome if the RespOrg for the number being evaluated is not the RespOrg the potential subscriber wishes to contact for the new number. Because of these concerns, for

this process to work, the Commission would have to require that the field identified by the SNAC be considered non-proprietary and that all RespOrgs populate the field whenever a SNAC-defined threshold of traffic for a number becomes the norm. Because of the potentially competitive nature of this information, asking RespOrgs to voluntarily identify their high-volume customers would likely not meet with a great measure of success.

VIII. ADMINISTRATION OF THE SMS/800 SYSTEM

The SMS/800 Tariff, filed on March 5, 1993, sets forth the charges for the SMS/800 service. It is the RBOCs, through a team of subject matter experts, the SMT, who manage the joint tariff. Their responsibilities include the development and ongoing administration of the interstate tariff and supporting cost and revenue tracking; the management, operation, and administration of the SMS/800 service; and the coordination with all vendors and suppliers involved in the service. To accomplish these goals, the SMT requested that Bellcore provide administrative support and management oversight for the tariff. Bellcore chose to provide the requested support through a subsidiary (DSMI), primarily to segregate the costs and revenues associated with the administration of SMS/800 services from Bellcore's costs and revenues. DSMI is a wholly-owned subsidiary of Bellcore whose role is limited to supporting the Commission's mandated SMS/800 tariffed service at the direction of the RBOCs.

To the extent that the Commission is taking issue with whether the RBOCs are the appropriate parties to tariff this service, it is essentially seeking a reconsideration of its Orders in CC Docket Nos. 86-10 and 93-129 in which the RBOCs were ordered to provide and jointly tariff SMS/800 database service. U S WEST submits that this larger issue is inappropriate for this proceeding and should be addressed in a separate rulemaking.

IX. CIRCUIT BREAKER MODEL

The Commission has proposed the use of a “circuit-breaker” approach similar to that used in securities trading for periods of high demand in toll free number assignments. The proposed model would be executed once the announced exhaust date for the current toll free code is reached. An exhaust date, at least four months from execution of the circuit breaker model, would be established based on the average weekly consumption rate of toll free numbers for the previous one-year period. Each RespOrg would be allotted a weekly allocation of numbers equal to its weekly average of numbers for the previous twelve months.

U S WEST supports the Commission’s efforts to regulate the fair and orderly transition to new toll free codes and will willingly work with the Commission, through the SMT, on necessary SMS/800 system changes. U S WEST wants to ensure that the Commission understands the system capabilities and the impacts of any changes required to accomplish the Commission’s goals. The capability currently exists in the SMS/800 to allocate numbers over a given period in

aggregate for all RespOrgs or on a per-RespOrg basis. A model similar to the one proposed in the Commission's NPRM is currently in place.¹⁶ Allocation parameters can be set to limit the quantity of numbers available over a daily, weekly, or even monthly time frame. Some system limitations include the ability to create reports as well as the ability to track and provide credits for numbers returned to spare on a per-RespOrg basis. Creation of these and other enhancements not in existence today will require programming work. The development, time frames, and costs are dependent on the complexity of the programming required.

The Commission, in its NPRM, proposed a second circuit breaker model that would apply to the day-to-day operations of the SMS/800.¹⁷ This application is RespOrg specific and would compute the monthly rate of toll free number consumption per RespOrg as well as an average of each RespOrg's five highest consumption days in a given month. The circuit breaker would be triggered if a RespOrg, in a single day, exceeded three times its five highest days average for the previous month. This model would require a significant amount of programming since the complexity of tracking daily figures and determining the five highest days average would have to be done for each individual RespOrg. This capability does not exist in SMS/800 at the present time.

Here again, the basic control of having an affirmative signed customer request will prevent a "run" on numbers as seen in the past. An effective audit and

¹⁶ Id. ¶¶ 53-54.

¹⁷ Id. ¶ 55.

enforcement policy by the Commission will do much more to ensure the appropriate utilization of this resource than will any circuit-breaker approach. Legitimate peaks in number assignment requests could be driven by mass marketing or novel product offerings. Such requests should be handled within the bounds of system capacities so that customers who are requesting service may receive it on a timely basis. This does not mean that the Commission should not employ a trigger to alert it that an unusual peak in demand has occurred so that it might initiate an appropriate investigation or at least a quick review. Such controls are necessary and valuable for the Commission to identify any problems or concerns which could have a significant impact on system performance and toll free number resource utilization.

X. TARIFFS

U S WEST has incurred significant costs associated with the implementation of additional toll free codes in network upgrades which are not recoverable under price cap regulation. U S WEST agrees with the Commission that no additional waivers of the Part 69 rules are necessary for the LECs to offer 888 access service. Tariffs will, however, need to reflect inclusion of additional toll free codes. Although captioned and referred to as access charges for 800 service in the Commission's rules, such charges are certainly applicable to any toll free service, whether offered via 800 or 888, 877, 866, etc. U S WEST plans to apply the same rate elements to 888 as currently applied to 800 toll free access service, with the exception of

requesting consideration for the use of a separate storage rate element. The Commission should continue to allow the LECs to use existing rates to initially provide this service.

A significant issue not specifically addressed by the Commission concerns the SMS/800 tariff jointly filed by the RBOCs. As the tariff which provides for the administration of 800 toll free numbers, this tariff will necessarily require modification to reflect the inclusion of 888 and 8XX numbers in the pool of numbers available for reservation and assignment. Significant costs have also been incurred in the development and implementation of the extended toll free capabilities which will also have to be factored in to SMS/800 rates. Indeed, if the Commission adopts the proposal to allow for early reservation of 888 numbers (*i.e.*, available in advance of the network availability date), the SMS/800 tariff filing will need to be effective coincident with the effective date for early reservation, not the effective date for network availability.

If 888 numbers are allowed to be reserved 45 days in advance, as proposed in the NPRM,¹⁸ tariff modifications necessary to reflect Commission-ordered service changes would need to be filed no later than December 1995 to meet the 45-day tariff filing notice requirement. The Commission should consider and reflect in any order issued the timing of the modification to the SMS/800 tariff necessitated by the introduction of the 888 access code. Should it appear likely that the Commission will allow early reservation of 888 numbers, U S WEST would request that the

¹⁸ Id. ¶ 25.

Commission grant the necessary waiver of the 45-day tariff filing notice requirement so that the RBOCs can comply fully with the direction of the Commission.

As to cost recovery and the inclusion of 888 implementation costs into SMS/800 service rates, it is difficult, if not impossible, for the RBOCs to accurately determine the appropriate tariff rate, as the Commission has yet to rule on the issues designated for investigation in its 800 Data Base Access Tariffs proceeding.¹⁹ Additionally, the Commission has also failed to rule on the individual companies' tariffs in this proceeding. Commission action in this docket prior to the implementation of additional tariff changes would provide essential information and possibly preclude the necessity for future SMS/800 service tariff-related investigations.

XI. CONCLUSION

The Commission should allow market forces to continue to be the long-term driver for the continued development and expansion of toll free services. The Commission should avoid the urge to over-regulate the toll free market without further study and instead focus on ways to ensure the continued expansion of this high-demand telecommunications service. While some short-term guidelines and continued monitoring which affords fair and equitable access by all industry

¹⁹ In the Matter of 800 Data Base Access Tariffs and the 800 Service Management System Tariff, Order Designating Issues for Investigation, 8 FCC Rcd. 5132 (1993).

participants will assist in the orderly implementation and rollout of the new 888 toll free code, any restrictions should be minimized so as not to impede the natural development of the toll free marketplace. The single most important change the Commission can make is to implement an affirmative response requirement prior to toll free number reservation in the SMS/800 system. This requirement will eliminate the largest source of inefficient number hoarding. Adopting rules which are consistent with these comments will foster the continued success of toll free service and the efficient use of the toll free resource.

Respectfully submitted,

U S WEST COMMUNICATIONS, INC.

By:


Gregory L. Cannon
Suite 700
1020 19th Street, N.W.
Washington, DC 20036
(303) 672-2765

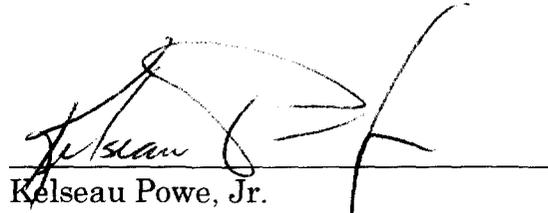
Its Attorney

Of Counsel,
Dan L. Poole

November 1, 1995

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 1st day of November, 1995, I have caused a copy of the foregoing **COMMENTS OF U S WEST COMMUNICATIONS, INC.**, to be served via hand-delivery upon the persons listed on the attached service list.


Kelseau Powe, Jr.

James H. Quello
Federal Communications Commission
Room 802
1919 M Street, N.W.
Washington, DC 20554

Andrew C. Barrett
Federal Communications Commission
Room 826
1919 M Street, N.W.
Washington, DC 20554

Reed E. Hundt
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, DC 20554

Susan P. Ness
Federal Communications Commission
Room 832
1919 M Street, N.W.
Washington, DC 20554

Rachelle B. Chong
Federal Communications Commission
Room 844
1919 M Street, N.W.
Washington, DC 20554

Kathleen M.H. Wallman
Federal Communications Commission
Room 500
1919 M Street, N.W.
Washington, DC 20554

Regina M. Keeney
Federal Communications Commission
Room 5002
2025 M Street, N.W.
Washington, DC 20554

Irene Flannery
Federal Communications Commission
Room 6329
2025 M Street, N.W.
Washington, DC 20554

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International Transcription
Services, Inc.
Suite 140
2100 M Street, N.W.
Washington, DC 20037