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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
The Use of N11 Codes and Other	)	**CC Docket No. 92-105**
Abbreviated Dialing Arrangements	)	
	)	

REPLY COMMENTS OF THE
GEORGIA PUBLIC SERVICE COMMISSION
TO COMMENTS REGARDING
FURTHER NOTICE OF PROPOSED RULEMAKING

April 30, 1997

Georgia Public Service Commission
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SUMMARY

The Georgia Public Service Commission ("GPSC") submits reply comments to the comments filed March 31, 1997, regarding the First Report and Order and Further Notice of Proposed Rulemaking adopted by the Federal Communications Commission ("Commission") on February 18, 1997 (released February 19, 1997), in CC Docket No. 92-105. The Further Notice of Proposed Rulemaking pertains to the use of N11 codes and other abbreviated dialing arrangements, including issues raised under amendments to the Communications Act of 1934 (the "Act") in the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 ("1996 Act").

Within Georgia, a number of service providers already use the 311 and 711 codes. At the same time, a number of switches have not been upgraded to enable N11 calls, and some local exchange companies have older switches that cannot be made N11 capable. For these and other reasons, an attempt to implement a complex 711 system for TRS access nationwide within three years would not be feasible or appropriate. Many technical matters first must be resolved. If the system were simple, such as having the 711 code "point" to TRS providers' existing access numbers, then implementation may be reasonable within three years.

Many states, including Georgia, already have TRS systems using 800-number access. The GPSC is concerned that sweeping these aside to impose even a "simple" nationwide 711 TRS access system is likely to impose unnecessary costs and technological burdens upon the industry and therefore upon all users of telecommunications services. The GPSC asks the FCC to consider whether the needs of the telecommunications marketplace warrant setting aside 711, one of the very scarce N11 codes, for these purposes.

If the 711 code is used for a more complex, "gateway" type system, and/or one that allows a single number for voice and text, plus presubscription and/or real-time choice among multiple TRS providers, both the technological challenges and the cost burdens will substantially increase. The GPSC urges the Commission not to proceed with mandates to implement a complex 711 access system until it has compiled a realistic estimate of the costs, and published those costs for public review and comment.

The GPSC has proposed principles in other comments pertaining to universal service and access charge reform. Similarly, the GPSC suggests that the following principles should apply to the N11 issues addressed in these reply comments:

1. Any changes in N11 assignments or systems should be driven by marketplace necessity and supported by technological feasibility.
2. Any N11 changes and systems should minimize subsidies and cost burdens placed upon other telecommunications services and users.
3. Any changes in N11 administration should continue to provide a significant role for state regulators.
4. Any N11 changes and systems should not favor one provider over another, either directly or through technological factors (competitive and technological neutrality).

These principles support the GPSC's discussion in many areas of these reply comments. The GPSC questions whether the needs of the telecommunications marketplace warrant use of one of the scarce N11 codes for TRS purposes. The GPSC also is concerned about technological feasibility, cost recovery, and the time frame for a "simple" 711 TRS access system, let alone a more complex "gateway" approach for TRS access. However, the GPSC also believes that, if any national gateway system must be implemented, it would be desirable to have it provide presubscription and access to multiple TRS providers, and single-number access for both text and voice users, subject to technological feasibility and appropriate cost recovery considerations.

With respect to the Commission's tentative conclusion that the sale of N11 codes would not be in the public interest, the GPSC simply remarks that it is appropriate for the Commission to be circumspect in construing its statutory authority. There does not appear to be clear statutory authority for the Commission to sell the right to use N11 codes.

The GPSC recognizes the basis for the Commission's proposal to transfer administration of local uses of N11 codes from incumbent LECs to the North American Numbering Plan Administrator ("NANPA"). At the same time, the GPSC requests that the Commission recognize the states' interest in supervising such local uses, and provide for state regulatory authorities continuing their significant role in N11 code administration within state jurisdictions.

Dated: April 30, 1997

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INTRODUCTION AND OVERVIEW

The Georgia Public Service Commission ("GPSC")[1] submits these reply comments to many of the comments filed on March 31, 1997, regarding the First Report and Order and Further Notice of Proposed Rulemaking adopted by the Federal Communications Commission ("Commission") on February 18, 1997 (released February 19, 1997), in CC Docket No. 92-105. The Further Notice of Proposed Rulemaking pertains to the use of N11 codes and other abbreviated dialing arrangements, including issues raised under amendments to the Communications Act of 1934 (the "Act") in the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 ("1996 Act").

GPSC specifically addresses comments by AT&T Corp. ("AT&T"), Ameritech Corporation ("Ameritech"), Bell Atlantic ("Bell Atlantic") Corporation and NYNEX Corporation ("NYNEX"), Cox Enterprises, Inc. ("Cox"), GTE Service Corporation, the International Association of Fire Chiefs, Inc. ("Fire Chiefs") and the International Municipal Signal Association ("Municipal Signal"), MCI Telecommunications Corporation ("MCI"), the National Association of the Deaf ("NAD"), the U.S. Telephone Association ("USTA"), and U.S. West, Inc.

Generally, the GPSC submits these reply comments consistent with its overall views that:

1. Any changes in N11 assignments or systems should be driven by genuine technological or marketplace necessity.
2. Any N11 changes and systems should minimize subsidies and cost burdens placed upon other telecommunications services and users.
3. Any changes in N11 assignments and systems should defer to, and be governed by, state regulators.
4. Any N11 changes and systems should not favor one provider over another, either directly or through technological factors (competitive and technological neutrality).

The Georgia Public Service Commission is a "State commission" as that term is defined in Section 3(41) of the Communications Act of 1934, 47 U.S.C. § 153(41), and is the State agency vested with jurisdiction to regulate telephone corporations in the State of Georgia. The GPSC has specific authority to petition, intervene, or otherwise commence proceedings before the appropriate federal agencies and courts having specific jurisdiction over the regulation of telecommunications seeking to enhance the competitive market for telecommunications services within the State. Official Code of Georgia Annotated ("O.C.G.A.") § 46-5-168(f).

These principles support the GPSC's discussion in many areas of these reply comments. The GPSC questions whether the needs of the telecommunications marketplace warrant use of one of the scarce N11 codes for TRS purposes. The GPSC also is concerned about technological feasibility, cost recovery, and the time frame for a "simple" 711 TRS access system, let alone a more complex "gateway" approach for TRS access. However, the GPSC also believes that, if any national gateway system must be implemented, it would be desirable to have it provide presubscription and access to multiple TRS providers, and single-number access for both text and voice users, subject to technological feasibility and appropriate cost recovery considerations.

Within Georgia, a number of service providers already use the 311 and 711 codes. At the same time, a number of switches have not been upgraded to enable N11 calls, and some local exchange companies have older switches that cannot be made N11 capable. For these and other reasons, an attempt to implement a complex 711 system for TRS access nationwide within three years would not be feasible or appropriate. Many technical matters first must be resolved. If the system were simple, such as having the 711 code "point" to TRS providers' existing access numbers, then implementation may be reasonable within three years.

Many states, including Georgia, already have TRS systems using 800-number access. The GPSC is concerned that sweeping these aside to impose even a "simple" nationwide 711 TRS access system is likely to impose unnecessary costs and technological burdens upon the industry and therefore upon all users of telecommunications services. The GPSC asks the FCC to consider whether the needs of the telecommunications marketplace warrant setting aside 711, one of the very scarce N11 codes, for these purposes.

If the 711 code is used for a more complex, "gateway" type system, and/or one that allows a single number for voice and text, plus presubscription and/or real-time choice among multiple TRS providers, both the technological challenges and the cost burdens will substantially increase. The GPSC urges the Commission not to proceed with mandates to implement a complex 711 access system until it has compiled a realistic estimate of the costs, and published those costs for public review and comment.

With respect to the Commission's tentative conclusion that the sale of N11 codes would not be in the public interest, the GPSC simply remarks that it is appropriate for the Commission to be circumspect in construing its statutory authority. There does not appear to be clear statutory authority for the Commission to sell the right to use N11 codes.

The GPSC recognizes the basis for the Commission's proposal to transfer administration of local uses of N11 codes from incumbent LECs to the North American Numbering Plan Administrator ("NANPA"). At the same time, the GPSC requests that the Commission recognize the states' interest in supervising such local uses, and provide for state regulatory authorities continuing their significant role in N11 code administration within state jurisdictions.

. PRINCIPLES

The GPSC has proposed principles in other comments pertaining to universal service and access charge reform. Similarly, the GPSC suggests that the following principles should apply to the N11 issues addressed in these reply comments:

1. Any changes in N11 administration should continue to provide a significant role for state regulators.
2. Any N11 changes and systems should minimize subsidies and cost burdens placed upon other telecommunications services and users.
3. Any changes in N11 assignments or systems should be driven by marketplace necessity and supported by technological feasibility.
4. Any N11 changes and systems should not favor one provider over another, either directly or through technological factors (competitive and technological neutrality).
5. Any N11 TRS system should maximize customer choice.

These principles support the GPSC's discussion in many areas of these reply comments.

. FACTUAL MATTERS

Within Georgia, a number of service providers already use the 311 and 711 codes. At the same time, a number of switches have not been upgraded to enable N11 calls, and some local exchange companies have older switches that cannot be made N11 capable.

Many states, including Georgia, already have TRS systems using 800-number access. Georgia's system uses two 800-numbers, one for TTY calls and one for voice calls. The users of the system are charged only for the amounts they would have paid, had the calls been transmitted over the network in an ordinary fashion. In addition, call durations are calculated with a 25 percent reduction for purposes of applying any per-minute charges, in order to make an adjustment for the longer times necessitated by keyboard usage. The TRS service provider is compensated by means of a contractual charge, and is selected by a competitive bidding process.

The economic and technical feasibility of implementing 711 nationwide in three years depends upon the underlying arrangement ultimately selected to provide 711, as discussed in the following sections of these reply comments.

. "Simple" 711 Access to TRS Service

BellSouth Corporation ("BellSouth") and Ameritech Corporation ("Ameritech") commented that a simple, uniform and easy to remember national dialing arrangement that routes calls to the statewide TRS provider in any given state by "pointing" to that provider's 800 number may be feasible to implement within three years. For BellSouth's wireline telephone exchange and exchange access service operations, it is technically feasible to program central office switches within a defined calling area to translate an N11 Service Code, such as 711, to a ten-digit number (such as a TRS provider's 800 number) in order to permit completion of a telephone call to a single TRS provider within the proposed three-year time frame. However, both BellSouth and Ameritech stated they are unable to address more specifically the cost or length of time it would take to implement a billing capability for 711 calls to a single TRS provider until additional sufficient information is provided regarding the scope of any 711/TRS access calling plan, or the manner in which charging and billing for 711 calls would be treated. (BellSouth Comments at 2-3, Ameritech Comments at 2, 3-4.)

The USTA stated that a limited nationwide implementation of 711 for TRS access, for people with hearing or speech disabilities who require a text telephone to communicate over the public switched network, can likely occur within the next three years. This would be accomplished in such a manner that a 711 call placed within a state's boundaries would be routed to the state-designated TRS provider. (USTA Comments at 8.) The GPSC agrees with the USTA (USTA Comments at 8) that determinations regarding such implementation should reside with each state.

MCI commented that it agrees with Sprint that, if nationwide 711 implementation efforts begin immediately and address appropriate technological issues, three years is a reasonable time within which to implement an abbreviated dialing code for TRS use. (MCI Comments at 5.) AT&T stated that three years appears to be a reasonable implementation period for a simple N11 system for accessing TRS service. (AT&T Comments at 2.)

Wireless calls using Commercial Mobile Radio Service ("CMRS") pose a different situation.[2] BellSouth stated that for its CMRS operations, it is also technically feasible to translate 711 to a TRS provider's 800 number. However, unlike wireline calling areas, many CMRS service areas cross state boundaries, and in some cases a single mobile switching center ("MSC") serves multiple states. In such cases, all 711 calls originating within the area served by the MSC would be translated to route to a single TRS center. Assuming different TRS providers in multiple states, one provider would have to be selected to receive all 711 calls from that MSC. This could result in a 711 call being routed to a TRS center operating in a state different from the one in which the caller is located. Under these circumstances, a switch translation would have to result in a default routing to one state's TRS provider or another. BellSouth stated that subject to this default, a three-year implementation probably can be achieved. (BellSouth Comments at 3-4.)

BellSouth commented that the solutions being developed to allow TDD/TTY users to use wireless services to make 911 calls will also provide for the ability of TDD/TTY users to make calls over CMRS systems to TRS centers, using existing 800 numbers or by dialing 711 if such a nationwide network is implemented. Efforts are underway among wireless manufacturers and TDD/TTY manufacturers to address this issue in conjunction with meeting the FCC's wireless 911 mandates. *See In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Report and Order and Further Notice of Proposed Rulemaking, FCC 96-264, CC Docket No. 94-102 (rel. July 26, 1996). The Commission's order requires CMRS carriers to be able to support 911 calls over their networks with TDD/TTY by October 1, 1997, but it is expected that this date cannot be met by all carriers, especially digital providers. BellSouth stated that PCIA and others have raised this issue with the Commission in their Petitions for Reconsideration of the E911 order and in recent Ex Partes. (BellSouth Comments at 6-7.)

For both wireline and wireless operations, the technological (and economic) complexity of 711 implementation would increase depending on the type of access architecture. (BellSouth Comments at 5.)

The U.S. Telephone Association ("USTA") noted the costs, technological challenges, and existing funding mechanisms that must be considered before moving to use of 711 for TRS access. The USTA concluded that each state should be left to determine when, and in what manner, 711 access to TRS centers should occur. (USTA Comments at 8.) The GPSC supports this suggestion. As the USTA pointed out, such state-based determinations can best take account of the technological challenges of older switches and the legal considerations related to existing contracts, cost recovery, and tariff modifications.

The National Association of the Deaf ("NAD") asked that implementation of 711 access occur within one year, rather than three years, although it also reserved further comment on this issue pending an opportunity to review comments submitted by those who would be charged with implementation. (NAD Comments at 4.) The GPSC believes that the initial comments show a three-year implementation is more realistic, even for "simple" 711 access.

US West, Inc. recommended a "simple" deployment, providing simple access to a TRS center without caller preselection of a TRS provider and without real-time choices from among different TRS providers. US West made this recommendation because it could not provide cost projections or confirm whether a three-year deployment is reasonable, until more specifics are known about the actual configuration of a proposed 711 TRS access system.

The GPSC notes that using a "simple" 711 system to access TRS providers should preserve the amount of competition that already exists, through the use of competitive bidding which establishes the exclusive TRS provider for a state, as in Georgia. However, a higher order of competition such as allowing caller selection or presubscription among multiple TRS providers does not appear to be technically feasible in such a "simple" system. BellSouth noted that the 800 database currently is not capable of table look-up functionality for access to multiple TRS providers. To provide the necessary capability, vendors would have to undertake switch feature development, possibly along with work by a nationwide standards body to define switch requirements. Implementation would proceed in two phases: first to load the newly developed features into network

switches, and second to obtain and record customer-specific data. BellSouth cannot project whether such development could occur within three years. (BellSouth Comments at 5.)

BellSouth added that Advanced Intelligent Network ("AIN") capability may offer a more promising solution for providing access to multiple TRS providers, but further technological development would be necessary to allow individual access to presubscribed TRS providers. Such refinements could only be ascertained with the development of nationwide standards. In addition, such efforts would involve far greater costs than the more simple "switch-based" N11 approach. Once again, BellSouth expressed concern about cost recovery. (BellSouth Comments at 5.)

As with wireline, if CMRS providers are required to provision a 711 code that will allow access to multiple TRS providers, they will confront many of the same unresolved economic and technological issues. Rating and routing standards would have to be developed. Other considerations, including directory changes and cost recovery mechanisms, would affect both wireline and wireless providers. (BellSouth Comments at 6.)

. **Costs for a "Simple" 711 Access to TRS Service**

BellSouth pointed out that local exchange companies ("LECs") will incur costs associated with switch upgrades and translations. In Georgia and seven other states (of the nine in which BellSouth offers wireline service), state commissions administer end user charges covering the costs associated with operating the state TRS center. BellSouth stated that CMRS (wireless) providers also will incur costs to enable even simple 711 access to TRS service. BellSouth commented that LECs' and CMRS providers' costs for programming switches and performing translations need to be recovered, and suggested that the states can determine how to take LECs' costs into account with respect to end user or other charges. (BellSouth Comments at 4-6.)

The GPSC agrees that costs will be incurred even for a "simple" 711 system to access TRS service. These costs may be greater in actual amounts, and certainly will be greater in relative percentages, for the smaller, independent LECs than for BellSouth. Some of the independent LECs' switches do not have the capability to be upgraded for N11 access.

. **More Complex 711 Access to TRS Services**

The Commission asked for comment on the feasibility of developing an N11 gateway for access to multiple TRS providers, including a single code for voice and text, and other enhancements such as choices among multiple providers. (FNPRM ¶ 68.) The GPSC has reservations about the technological feasibility and costs for the creation of a gateway 711 TRS access system. The GPSC recommends careful review of comments like those of AT&T and USTA which stated that a three-year implementation schedule for such a gateway is technologically infeasible. (AT&T Comments at 2, USTA Comments at 6-7.) As discussed elsewhere in these reply comments, the GPSC also questions whether the needs of the telecommunications marketplace warrant use of one of the scarce N11 codes for this purpose. However, the GPSC also believes that, if any national gateway system is implemented, it would be desirable to have it provide presubscription and access to multiple TRS providers, and single-number access for both text and voice users, subject to technological feasibility and appropriate cost recovery considerations.

The National Association of the Deaf ("NAD") stated that a single number, apparently the 711 code, should be used for both text and voice users. (NAD Comments at 4.)

AT&T, Ameritech, and MCI commented that use of a single number (whether 711 or another dialing sequence) poses a host of difficult technical pitfalls for TRS providers. For example, TRS centers must serve both voice users and text customers who use equipment that employs a variety of transmission protocols. TRS centers now commonly serve this multiplicity of transmission characteristics by deploying separate inbound numbers for voice callers and for Baudot, and ASCII callers. This procedure provides prompt interconnection to the TRS center and minimizes call setup time. In further support of this proven system, the Industry Numbering Committee of the Industry Carriers Compatibility Forum ("ICCF") in March, 1995 adopted uniform nationwide toll-free numbers for voice, ASCII and Baudot to facilitate convenient customer access to TRS centers. (AT&T Comments at 2-3, Ameritech Comments at 6, MCI Comments at 1-2.)

If the 711 code is required to be deployed, all of the call types would go to the same number. TRS providers would be required to develop and deploy a platform to identify the transmission parameters of each incoming call prior to routing it to a communications assistant. However, no such system currently exists. Call setup time would inevitably increase (perhaps from 5 to 10 seconds),

and customers could experience answer performance delays in excess of the standard prescribed by the Commission's TRS rules.[3] (AT&T Comments at 3-4, Ameritech Comments at 7, MCI Comments at 2-3.) Other beneficial customer service features could be impaired. For example, many TRS providers have developed "customer profiles" that allow them to identify a TRS customer and his or her service preferences, based upon the caller's automatic number identification ("ANI"). This capability might not be preserved with the type of platform necessary to implement the Commission's current proposal. (AT&T Comments at 3-4.)

The NAD proposed that customers be allowed to presubscribe to their preferred relay provider. Alternatively, the NAD recommended a gateway through which customers may obtain access to multiple relay vendors and TTY operator services. (NAD Comments at 3-4.) While the GPSC has reservations regarding technological feasibility, the GPSC does support in principle the NAD's recommendations regarding presubscription and access to multiple providers, when feasible. However, the NAD also asked that 711 access be implemented within one year rather than three years. (NAD Comments at 4.) Having assessed many of the initial comments, the GPSC believes that a one-year implementation even of basic 711 access - without enabling presubscription or real-time vendor selection, and without a gateway - already is overly optimistic.

Ameritech commented that use of 711 to provide access to multiple TRS providers will likely pose technical issues, cause significant added costs, and delay implementation of the service. It may also degrade the quality of TRS access. Ameritech also believes that use of 711 for access to multiple TRS providers is not the best method of fostering competition and consumer choice. (Ameritech Comments at 3.) The GPSC concurs in Ameritech's concerns regarding technological problems and added cost burdens, but does not understand Ameritech's statement regarding the best method of fostering competition and consumer choice.

MCI commented that various problems must be overcome; one example would be the use of "random default" for service provider selection, which would run contrary to the goal of competitive incentives to improve service quality. In addition, MCI stated that use of the Primary Interexchange Carrier ("PIC") code for routing TRS calls is wholly inappropriate because it forces a relationship between two services - traditional interLATA service, and relay service - which currently have no

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47 C.F.R. § 64.604(b)(2) requires that 85 percent of TRS calls be answered within 10 seconds.

relationship. Some long distance carriers have no relay service. Further, as MCI pointed out, a user may find that a good long distance company is not necessarily the best relay provider, and vice versa. However, MCI suggested, creation of a Primary Relay Provider ("PRP") that parallels PIC would provide an equivalent solution to the ambiguity of dialing "1" to select a long distance carrier. (MCI Comments at 4-5.) The GPSC believes that MCI has identified significant technological challenges.

MCI also suggested the option of assigning "10XXX" type codes to service providers, so that users could specify their provider of choice before placing a call. According to MCI, use of 10XXX significantly enhances consumer choice and enables users to access specialized TRS areas. MCI believes that this access method should remain available, even with use of 711. For example, 711 would indicate the call is a TRS call, while the 4th digit could indicate the TRS provider.[4] The 5th digit would indicate the type of access, text or voice. MCI stated that the local carrier would need only to convert the first four digits to route a call to the appropriate provider. (MCI Comments at 4.) The GPSC finds MCI's suggestions an interesting approach warranting further consideration, although the GPSC is not in a position to evaluate the technological feasibility of these suggestions.

BellSouth noted that for both wireline and CMRS providers, provisioning a 711 code that will allow access to multiple TRS providers or to a TRS gateway poses many unresolved economic and technological challenges. These include rating and routing standards, cost recovery mechanisms, directory changes, and other ancillary implementation issues. (BellSouth Comments at 6.)

The USTA cautioned that 711 access via a gateway that would permit users to select among multiple TRS providers, or have their calls routed to a presubscribed TRS provider, and that would incorporate access to other disability services would require at a minimum the deployment of Advanced Intelligent Network ("AIN") and extensive industry work associated with telecommunications standards setting and protocols. In addition, the implementation of 711 to promote competition and user choice is greatly different in terms of time, technology, and cost from

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Ameritech stated that the Industry Numbering Committee ("INC") has already permitted each national TRS provider to select a number that it can universally use throughout the NANP serving area. Thus, end users that wish to use a single provider wherever they are in the NANP serving area, or to use a provider other than the local certified provider in their local area, need simply remember the single number of that provider. According to Ameritech, this would hold true even after 711 access is implemented, and would provide a viable competitive option to the local state-certified provider. Ameritech added that the number can be programmed into customer provided equipment ("CPE"). Ameritech Comments at 7.

a simpler system in which the 711 code would "point" to the existing TRS providers' access numbers. The USTA agreed that 711 access via a gateway will not be feasible within the next three years. The USTA suggested that further consideration of this matter may be more appropriate at a later time, or through other means. (USTA Comments at 6-7, 8-9.)

Many commentors asked the Commission to refrain from requiring complicated enhancements to the TRS access service. In addition, Bell Atlantic Corporation and NYNEX Corporation stated that they do not know any way to offer a gateway that is compatible with Baudot signals (which are used by TTYs) or that could be used without a "menu-driven" approach, which could delay call setup.

The USTA noted the costs, technological challenges, and existing funding mechanisms that must be considered before developing and deploying a 711 gateway for TRS access. The USTA concluded that each state should be left to determine when, and in what manner, 711 access to TRS centers should occur. (USTA Comments at 8.) The GPSC supports this suggestion. Such state-based determinations can best take account of the technological challenges of older switches and the legal considerations related to existing contracts, cost recovery, and tariff modifications.

The GPSC supports AT&T's conclusion that the Commission should not attempt to prescribe a specific schedule for implementing the 711 code for TRS. AT&T recommended that the Commission continue periodically to monitor technical and other marketplace developments that may affect the eventual deployment of single number 711 access, until a sufficient body of knowledge is available regarding its technical feasibility. (AT&T Comments at 4-5.) The GPSC agrees that a more considered approach to implementation will best serve the interests of TRS customers by assuring that any single-number nationwide access would provide TRS users with convenient, high quality service without degradation of current service characteristics.

. **Costs Imposed by Complex 711 System for TRS Service**

In Georgia, the cost of the TRS has risen since its inception, and funding the system now requires a 16-cent per access line surcharge. The primary driver of the cost increases has been the growing call volume. Call volumes are projected to continue growing but the access line surcharge in Georgia is capped at 20 cents by statute. Therefore, the GPSC is concerned about containing the current cost increases, and even more concerned about loading new costs onto the system.

The Commission's proposals could require new trunking, and switch upgrades. Not only would existing switches need to be upgraded, some would have to be replaced because they are simply not N11 compatible. The FCC's proposal has gone beyond its initial requirements regarding N11 access, to require that all LECs enable N11 calling. On top of all this, the more complex system enabling a gateway, preselection among multiple TRS providers, and a single number for text and voice will impose cost burdens that cannot be estimated with any certainty but are sure to be substantial.

According to AT&T, deploying the 711 code is certain to be costly. AT&T offered an estimate of costs approaching $10 million. (AT&T Comments at 4.) However, the GPSC questions whether that estimate adequately takes into account such factors as the need to upgrade or replace switches that are currently not N11 compatible. AT&T added that implementing the platform for the 711 gateway access to TRS would not only add greatly to the costs of processing TRS traffic, but would inevitably add substantially to call setup time and could also impair other customer service features, thereby degrading service and reducing customer satisfaction as costs rise. (AT&T Comments at 3-4.)

The GPSC urges the Commission not to proceed with mandates to implement a complex 711 access system until it has compiled a realistic estimate of the costs, and published those costs for public review and comment.

. POLICY ASPECTS

. 711 TRS Access

In its order concluding the initial phase of this proceeding, the Commission stated that the 711 code should be assigned for TRS use. (FNPRM ¶ 55). AT&T and other commentors fully supported this decision. (AT&T Comments at 1.)

The GPSC is concerned that sweeping aside existing TRS systems to impose a nationwide 711 TRS access system may impose unnecessary costs and technological burdens upon the industry and therefore upon all users of telecommunications services. The GPSC also asks the Commission to consider carefully whether the 711 code should be set aside for a national TRS access system. N11 numbers are a limited resource, and the GPSC is concerned whether the needs of the growing telecommunications marketplace warrant setting aside the 711 number for these purposes. Some commentors have suggested an additional N11 number so that TTY and voice calls could access the system on a parity basis. This is commendable on the basis of parity, but further restricts the remaining availability of the scarce N11 codes.

Assuming that a single N11 number could not be used for both voice and text access to a TRS system, and further assuming that the convenience of renumbering the N11 code is the major factor, the Commission may also wish to consider whether priority should be given to an N11 number for voice access, simply on the basis that the percentage of TRS calls by voice users is likely to be smaller than the percentage of TRS calls by text users.

The GPSC generally has reservations about replacing the TRS systems in Georgia and other states with a national 711 TRS access system. If 711 is to be used, many commentors suggested that the Commission allow state regulators to tailor the 711 service to their states' individual circumstances. The GPSC would support this as a minimal objective, along with accommodating multiple providers and caller choices.

. **311 Issues**

BellSouth Corporation ("BellSouth") urged the Commission to reconsider imposing a six-month implementation deadline for 311 availability for non-emergency government calls. BellSouth based this recommendation on the lack of any uniform 311 architecture. The International Association of Fire Chiefs, Inc. ("Fire Chiefs") and the International Municipal Signal Association ("Municipal Signal") stated that: "The 311 assignment carries with it the *certainty* of caller confusion between 311 and 911 answering points."

The GPSC supports the Commission's policy goal of setting aside the 311 code for non-emergency government calls. However, in view of the statements cited above, the GPSC believes that the Commission may wish to reassess the viability of its proposed implementation time frame.

In their joint petition, the Fire Chiefs and Municipal Signal added that the intended benefits of the 311 assignment depend on nationwide implementation, creating an "impermissible unfunded federal mandate." The GPSC generally shares this concern, as indicated in subsequent sections of these reply comments on the 711 access issues.

The National Association of the Deaf ("NAD") also addressed the 311 code by asking the Commission to condition the grant of the 311 code for non-emergency police access on its being fully and directly accessible to TTY users. NAD argued that such a requirement would be consistent with Congress' goal in Section 255, to ensure access to all telecommunications services. Moreover, NAD argued that Title II of the ADA requires 911 "and other emergency services" to be directly accessible by individuals with disabilities, citing 42 U.S.C. § 12131-12161; 28 C.F.R. § 35.162, and concluded that it would be inconsistent "and likely a violation of this Title" to permit states to adopt the 311 code without requiring parallel access. (NAD Comments at 4-5.) The GPSC questions the NAD's interpretation of these statutes and rules, given that the 311 would be for non-emergency uses. In addition, to the extent that the Fire Chiefs and Municipal Signal raised the argument of an unfunded mandate, this would represent additional costs which must be recovered from some source.

BellSouth sought clarification that information service providers ("ISPs") currently using 311 and 711 codes may continue to use them. BellSouth also asked whether those codes could continue to be assigned until they are needed for the new services. In view of the fact that the 311 and 711

codes are being used by information service providers today in Georgia, the GPSC shares in this request for clarification.

In addition, BellSouth and Ameritech Corporation ("Ameritech") asked for clarification that an incumbent need not make the 611 and 811 codes available to competitors if it does not use them itself. The GPSC agrees that it would be helpful for the Commission to provide additional clarification regarding the status and usage of N11 codes. These are very scarce resources, and with increasing competition, new requests for and proposed uses of N11 codes already have been made, and this trend is bound to continue.

. LEGAL ASPECTS

A. Sale of Rights to Use N11 Codes

With respect to the Commission's tentative conclusion (¶ 71) that the sale of N11 codes would not be in the public interest, the GPSC simply adds that it is appropriate for the Commission to be circumspect in construing its statutory authority. AT&T commented that it is questionable whether the Commission possesses the authority to sell the right to use N11 Codes. (AT&T Comments at 5-7.) Cox Enterprises, Inc. ("Cox") more forthrightly argued that Commission sale of N11 numbers or other numbering resources is neither in the public interest, nor within the Commission's authority. (Cox Comments, 1-6.) The GPSC agrees that there does not appear to be clear statutory authority for the Commission to sell the right to use N11 codes.

By way of example, the Commission's authority to conduct spectrum auctions derives from an express statutory provision, rather than from its general powers to manage spectrum. Section 251(e)(1) of the 1996 Act grants the Commission express authority to administer numbering resources, including N11 codes and other abbreviated dialing arrangements.[5] However, neither the 1996 Act nor the Communications Act of 1934 provides express authority for sale of those resources,

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See Comment, "Spectrum Bids, Bets, and Budgets: Seeking an Optimal Allocations and Assignment Process for Domestic Commercial Electromagnetic Spectrum Products, Services, and Technology," 48 Fed. Comm. L. J. 511, 514-15 (1996).

unlike Section 309(j)'s clear grant of authority to conduct spectrum auctions. There is no comparable specific statutory authorization to sell the right to use numbering resources in the form of N11 codes.

Cox argued that Congress spoke specifically to the Commission's authority to generate revenues relating to numbering matters, pointing to Section 251(e)(2) which provides for the authority to recover "[t]he cost of establishing telecommunications numbering administration arrangements and number portability" from telecommunications carriers "on a competitively neutral basis." 47 U.S.C. § 251(e)(2). Cox argued that this is the extent of the Commission's authority, and that Section 251(e) does not permit the Commission to raise more revenue than necessary for those specific purposes. Further, Cox argued that there would be a disparate competitive impact on new entrants and others with high demand for numbering resources, such that the sale of numbering resources could not meeting the requirement of competitive neutrality in Section 251(e)(2). (Cox Comments at 5.)

In addition, Cox argued that Congress granted the Commission express authority to impose charges in other parts of the Communications Act, including 47 U.S.C. §§ 8(g) (application fees), 9 (regulatory fees), and 309(j) (spectrum auctions), and that none of these express provisions can apply to numbering resources. Considering the detail with which Congress has specified the Commission's authority to raise revenue, Cox argued that the Commission cannot conclude it is authorized to extend that authority to areas that Congress did not consider. Such authority is reserved exclusively to Congress; *see* U.S. Constitution art. I, § 8 (giving Congress the authority to raise revenues). Absent a specific direction from Congress, Cox concluded, the Commission ca-6.)

BellSouth agreed with the Commission's tentative conclusion that N11 codes should not be sold through private transactions. BellSouth commented that in light of the value judgments made by the Commission to date with respect to various special functions associated with N11 codes (311 for non-emergency police and local government service, 711 for TRS access and 911 for emergency fire, police and rescue services, and the equal availability of 411, 611 and 811 to all telecommunications service providers for directory assistance, business and repair office uses), selling the right to use the remaining N11 codes (211 and 511) "is not likely to encourage optimal uses of those resources, and may, in fact, discourage their use entirely." (BellSouth Comments at 7-8.) The USTA also commented that N11 codes are important public resources that serve national and state

goals, and should not be subject to sale or transfer through private transactions. (USTA Comments at 8.)

BellSouth added, however, that a transfer of N11 codes incidental to a business reorganization should not be prohibited. (BellSouth Comments at 7.) The GPSC does not oppose this concept, but suggests that an entity other than the interested business should draw the final conclusion as to whether the transfer is "incidental" to the business reorganization. This might be one of the responsibilities of the NANPA, if it assumes the responsibilities of N11 code administration.

B. The Commission Should Avoid Substantial New Cost Burdens

The industry costs of complying with the various proposals outlined in the Commission's FNPRM may be viewed from a policy perspective as an unfunded mandate. The Commission should also review, however, whether a statutory mandate exists to justify these cost burdens. The GPSC agrees that the Commission should interpret the 1996 Act narrowly to remain consistent with sound principles, including competitive neutrality and respect of state jurisdiction, and to avoid problems of statutory authority or constitutional infirmities. Clearly the Commission is seeking to establish convenient abbreviated calling for calls that the Commission deems to be in the public interest. However, the Commission should also be cautious to avoid imposing what amounts to tax burdens on the telecommunications industry and its users, absent an express Congressional mandate.

C. State Interest in N11 Administration and Usage Must Be Respected

The FNPRM tentatively concluded (¶ 75) that administration of N11 codes for local use should be transferred from incumbent LECs to the North American Numbering Plan Administrator ("NANPA"), concurrently with the transfer of central office code administration functions to that entity. BellSouth and the USTA supported this proposal. (BellSouth Comments at 8, USTA Comments at 8.) AT&T also supported the Commission's proposal, and suggested as an alternative that N11 administration be transferred to the NANPA at an earlier date. (AT&T Comments at 8.) The GPSC supports these comments, except that the GPSC also asks the Commission to recognize and reserve a role for state regulators.

The GPSC recognizes the basis for the Commission's proposal to transfer administration of local uses of N11 codes from incumbent LECs to the NANPA. At the same time, the states have a legitimate interest in supervising such local uses. Therefore, state regulatory authorities should continue to have a significant role regarding the administration, deployment, and usage of N11 codes within their state jurisdictions.

BellSouth observed that although it has provided a local calling area based N11 abbreviated dialing service under tariff to information service providers in several states, it has not, as the incumbent LEC, "administered" the N11 codes themselves. Instead, the codes used to provide these services have been administered by or under the auspices of the relevant state commission, because they are "intra-network codes." BellSouth stated that "inter-network codes" are best administered by a neutral third-party administrator pursuant to industry-developed guidelines. (BellSouth Comments at 8.) The GPSC believes that these comments reflect the state's continuing interest with respect to N11 codes, certainly with respect to local calling area based N11 codes used by information service providers.

As the USTA commented, implementation of the 711 code for TRS access, even on a limited basis for text access, is inextricably linked to the specific circumstances surrounding a state's local exchange carriers, TRS provider, and TRS user communities. Therefore, determinations regarding implementation of 711 for TRS access should most appropriately reside with each state. (USTA Comments at 8.)

For these reasons, the GPSC asks the Commission to respect the states' interests in local N11 uses and administration. The Supreme Court has held that Section 152(b) fences off state regulation of intrastate services from the FCC. *See Louisiana Public Service Commission v. FCC*, 476 U.S. 355, 374-75 (1986). The Supreme Court concluded that § 152(b) represents a jurisdictional overlay that fences off state regulation of local telecommunication matters from FCC intrusion. The Court clarified that the congressional denial of power to the FCC in § 152(b) can only be overcome if Congress includes "unambiguous" and "straightforward" language in the Act either modifying § 152(b) or expressly granting the FCC additional authority. *Id.* at 377.

In the 1996 Act, Congress reiterated the requirement that repeal must be express and may not be by implication. Section 601(c) of the 1996 Act provides: "This Act and the amendments made

by this Act shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such Act or amendments."

Section 152(b) preserves the states' jurisdiction over charges for intrastate communications between carriers as well as to end users. The Supreme Court in *Louisiana* rejected the notion that § 1372. As the Court noted, § 152(b) was intended to preserve the states' jurisdiction over nearly all aspects of intrastate telecommunications, including charges between carriers. By extension, the states retain jurisdiction over aspects of intrastate telecommunications that include N11 code usage and deployment.

. CONCLUSION

The GPSC commends the Commission for its efforts regarding the administration of N11 codes. For the reasons stated above, the GPSC also asks the Commission to modify some of its proposals for the administration of 711 and other N11 codes, and not proceed to consider mandates for any complex system until it publishes realistic cost estimates for public review and comment, consistent with sound principles for the cost-effective management of N11 resources and the telecommunications infrastructure.

Respectfully submitted,

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FOR THE GEORGIA PUBLIC SERVICE COMMISSION

Dated: April 30, 1997

CERTIFICATE OF SERVICE

The undersigned Terri M. Lyndall does hereby certify that true and correct copies of the foregoing Reply Comments of the Georgia Public Service Commission to the Federal Communications Commission in CC Docket No. 92-105 were served by first-class United States mail, postage prepaid, to the persons who filed the comments to which these reply, and additionally to those persons as required by the FCC's procedures, this 29th day of April, 1997.

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