

be modified and adapted to meet current industry and national needs, not the Pennsylvania PUC's plan that should be rejected.

The purpose and intent of the Commission in rejecting the Ameritech "wireless overlay" plan was its seemingly arbitrary distinction between services on the basis of their respective technology. Such discrimination, if arbitrary, would indeed be unacceptable. However, the Commission should allow the states to set reasonable technical standards for participation in geographic NPAs which, if satisfied by individual carriers, would entitle them to full and equal participation. On the other hand, carriers that are unable or unwilling, due to their own internal strategic or cost management preferences, to adhere to such standards should not be allowed to block implementation of such policies and programs.

With respect to the Pennsylvania "temporary transparent overlay" plan and LRN-based NXX-X number pooling, such arrangements will be open and available to any and all certificated carriers who are able to participate in LRN LNP on a permanent basis and who can port individual numbers and share NXX codes on a temporary basis. The decision of wireless carriers, whenever made, to exclude themselves from LNP and from the ability to share NXX codes with other services does not entitle them to cripple efforts at preventing unnecessary churn in number assignments through the use of area code splits or overlays. Carriers who cannot or will not participate in such programs should be offered numbers in overlay NPAs in which NXX-X number pooling is not being required. Thus, instead of creating "wireless overlays" to which number assignments would be made arbitrarily, overlay area codes *not requiring NXX-X LRN LNP* can be established and numbers therein be offered to *any* carrier (wireline or

wireless) unable or unwilling to comply with number pooling and other reasonable number resource management and conservation measures.

Under this arrangement, responsibility for assuring full participation in geographic NPAs that are used by and available to carriers capable of and willing to participate fully in number pooling shifts from regulators to the carriers themselves. That is, eligibility for inclusion within a particular geographic NPA will be based upon the carrier's own decisions as to its willingness to comply with the pooling and conservation requirements set forth for that NPA. At the same time, carriers who cannot or will not accept such pooling and conservation requirements will still have access to an adequate supply of numbers,⁴¹ but not in the primary geographic NPA. At least one industry commenter supports this solution: Omnipoint advocates "that the Commission require implementation of the Expanded NPA Overlay concurrently with" number pooling or a similar alternative solution.⁴² Under such an arrangement, carriers able and willing to participate can protect themselves and their customers against further area code changes because, with appropriate pooling, conservation and number resource management, the need for additional splits will be largely eliminated.

III. CONCLUSION

The Commission should clarify its "technology neutrality" standard in the following specific respects:

- "Technology neutrality" with respect to number assignment is a "guideline" that is to be applied where economically reasonable and efficient and where its application will not accelerate number exhaust or impose costs and burdens upon

⁴¹ This is the primary concern of a number of cellular industry commenters, including Omnipoint (at 4), Sprint Spectrum (at 4), and Vanguard Cellular (at 3).

⁴² Comments of Omnipoint Communications, Inc. at 5.

other users of number resources.

- While strict adherence to the "technology neutrality" principle would create or impose burdens or costs upon certain users and/or carriers while benefiting others, the policy should be applied so as to minimize total societal costs.
- The burden of compliance with the technical requirements of any publicly beneficial number resource management policy, such as NXX-X LRN LNP number pooling, shall be upon carriers desiring number assignments in NPAs in which such programs are in effect, and the inability and/or unwillingness of individual carriers to comply with such technical requirements shall not *per se* render such programs in violation of the "technology neutrality" policy.

It is imperative that the Commission apply this definition of the "technology neutrality" principle both with respect to the new approaches to number resources management being proposed by the Pennsylvania PUC and others, as well as to past actions such as its ruling in *Ameritech* prohibiting the use of service-specific overlays. As SBC has correctly noted, "[i]f number pooling were not permitted until all carriers are LNP-capable, number pooling will never be implemented."⁴³ In combination with number pooling, the assignment of NPAs specifically designed for use by mobile communications services can serve to eliminate the future need for area code changes

⁴³ Comments of Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell at 3. Emphasis in original.

for both fixed and mobile services, and thereby minimize aggregate societal cost while assuring maximum availability of telephone numbers to all carriers and all services.

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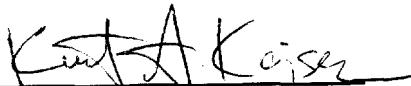
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I hereby certify that the foregoing document was served this 6th day of November, 1997 by delivering copies thereof by hand to the following:

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