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EX PARTE OR LATE FILED

Ex Parte
October 27, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20054

Re: CC Docket Nos. 92-237 and 95-116

Dear Ms. Salas:

Today, the attached letter was sent from the undersigned, on behalf of Bay Springs Telephone Company, Inc.; Roanoke Telephone Company, Inc.; National Telephone Company of Alabama, Inc.; Crockett Telephone Company, Inc.; Peoples Telephone Company, Inc.; and West Tennessee Telephone Company, Inc., to Lawrence Strickling, Yog Varma, Anna Gomez, and Kris Monteith, of the Common Carrier Bureau ("CCB"). In addition, a copy of this letter was sent to Alan Hasselwander and Ron Binz of the North American Numbering Council.

Please place a copy of this letter in the record in the above-captioned proceedings. Acknowledgment and date of receipt of this letter are requested. A duplicate letter is attached for this purpose.

Very truly yours,

Arter & Hadden, L.L.P.
by James U. Troup

Enclosure

cc: Lawrence Strickling
Anna Gomez
Alan Hasselwander
Yog Varma
Kris Monteith
Ron Binz

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Ex Parte
October 27, 1998

Lawrence Strickling, Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket Nos. 92-237 and 95-116

Dear Mr. Strickling:

This letter is written on behalf of several small incumbent local exchange carriers ("ILECs")[1] hereinafter referred to as the Rural Telephone Companies, that are concerned about the impact of federal numbering policies and their attendant costs on small and rural ILECs and their customers. Our letter raises important regulatory and public policy issues that are inherent in the recent report of the North American Numbering Council ("NANC") on telephone number optimization measures.[2] The Rural Telephone Companies are concerned that adoption of thousands block number pooling in some large

[1] The Rural Telephone Companies include the following small ILECs, which are owned by Telephone Electronics Corporation ("TEC"): Bay Springs Telephone Company, Inc., operating twelve exchanges serving approximately 9000 access lines in the state of Mississippi; Roanoke Telephone Company, Inc., operating two exchanges serving approximately 4500 access lines in the state of Alabama; National Telephone Company of Alabama, Inc., operating three exchanges serving approximately 2000 access lines in the state of Alabama; Crockett Telephone Company, Inc., operating three exchanges serving approximately 3000 access lines in the state of Tennessee; Peoples Telephone Company, Inc., operating nine exchanges serving approximately 4100 customers in Tennessee; and West Tennessee Telephone Company, Inc., operating four exchanges serving approximately 4200 access lines in the state of Tennessee. TEC's other subsidiaries offer cable television, long distance, wireless, security, real estate and financial services in various parts of the United States.

[2] Report of the NANC on number pooling and other number optimization methods, filed September 23, 1998.

metropolitan areas will likely force many small ILECs to incur substantial costs even though they would not be participating in any number pool. In addition, without a concomitant cost recovery plan for those affected small ILECs, local rates may have to be raised substantially for rural customers. It is possible that the conservation of telephone numbers in metropolitan markets could have negative consequences for universal service in some rural areas. These concerns are detailed below.

In light of these concerns, the Rural Telephone Companies respectfully request that the FCC examine the impact of thousands block number assignment on small ILECs and universal service as part of the FCC's review of NANC's report on thousands block number pooling. Set forth below are several specific questions that the Rural Telephone Companies believe should also be considered by the FCC in its review of the NANC report. Given the importance of these issues to the policies underlying the Communications Act of 1934, as amended, the FCC should request public comment on and answers to these questions.

The NANC report in question was prepared by the Number Resource Optimization Working Group, under the direction of NANC, in response to a request to NANC by then Common Carrier Bureau Chief A. Richard Metzger.[3] Mr. Metzger's letter, after citing the many difficulties being caused customers by the exhaustion of many area codes around the United States, requested that NANC recommend "national number pooling standards" that are "sufficiently detailed to support technically and operationally, a uniform, nationwide system for pooling by December 1999."[4]

The NANC report was filed with the Federal Communications Commission ("FCC") on September 23, 1998. This report recommends requirements and standards for a form of number pooling, known as thousands block number assignment or thousands block number pooling. The report concludes that thousands block number pooling can be implemented within 10-to-19 months after a regulatory order directs such pooling to be established within a single ILEC rate center. The particulars of thousands block number assignment were set forth in substantial detail in the NANC report and we will not repeat such detail herein.

The Rural Telephone Companies do not oppose NANC's number conservation efforts or number pooling *per se*. Neither do we wish to become a barrier to the development of full-scale local competition and the successful entry of competitive local exchange carriers ("CLECs") into large metropolitan markets. We agree with NANC that the telephone industry and other interested parties have worked diligently to develop standards and requirements for thousands block number assignment to allow a more

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[3] Letter from A. Richard Metzger, FCC, to Alan Hasselwander, NANC, dated March 23, 1998.

[4] *Id.* Mr. Metzger's letter also requested that NANC recommend other number conservation measures in addition to number pooling. This *ex parte* letter does not address the parts of NANC's reports that address number conservation measures other than thousands block number pooling.

efficient use of the 10,000 telephone numbers within an NXX code. While the end product is not yet complete, the Rural Telephone Companies believe that thousands block number pooling could result in a more efficient use of telephone numbers, fewer NPA exhausts and, in large markets, better access to telephone numbers, especially for CLECs. Indeed, if the North American Numbering Plan ("NANP") was applicable only in the largest metropolitan markets, the FCC could well find that thousands block number pooling was in the public interest simply on the basis of the NANC report.

However, as the FCC is well aware, the impact of modifications to the NANP, such as thousands block number assignment, cannot be limited to only major population centers. Even though a rural ILEC might never be involved in a number pool, the implementation of thousands block number pooling, as proposed, can negatively affect many small ILECs and their customers.

If thousands block number pooling is used within any individual LATA, small ILECs operating within that same LATA could be forced to modify their networks and operations support systems ("OSS") at major cost. A substantial increase in operating costs could force small ILECs to raise rates for local service to levels well beyond what are charged in urban areas. Absent these costly network and OSS modifications, a small ILEC would be forced to curtail providing services to their existing customers. Neither of these results is acceptable to the Rural Telephone Companies nor in the public interest.

Many small ILECs today deliver intraLATA toll calls into metropolitan areas in which thousands block number assignment will likely be used. Other small ILECs have extended area service ("EAS") into metropolitan markets. In either event, without major and costly changes to their switches and OSS, small ILECs cannot deliver calls to any thousands block number pooling market. As the FCC is well aware, small ILECs' networks and OSS have been engineered to rate, route and bill calls on the fundamental principle that an entire NXX code is associated with a single carrier and with a single switch. This basic principle is negated with the use of thousands block number assignment, since multiple carriers may share a single NXX code within a given number pool.

As the draft thousands block number assignment guidelines[5] recognize, the use of thousands block number assignment principles will have a major impact on the telecommunications industry. Thousands block number assignment will likely require modifications to switching hardware and software, and to carriers' OSS. Among these required changes are modifications to the Terminating Point Master ("TPM") that is used for the rating of calls.

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[5] Industry Numbering Committee, *Draft 9, 1000 Number Block Number Assignment Guidelines*, August 1998, at §2.4.

According to the Industry Numbering Committee's "Consolidated Glossary,"[6] "The TPM contains all active NPA and CO code (NXX) combinations in the NANP and for each of these points the following is provided: Major Vertical and Horizontal coordinates, LATA/LATA-like code, LATA subzone code, RAO code, place and state, province or country name abbreviation, and time zone indicator." In order to deliver intraLATA toll or EAS calls to NXXs that have been assigned by thousands blocks, small ILECs will be forced to use a revised and more complex TPM, which has not yet been designed or priced by its vendor, Bellcore.[7]

Small ILECs may also have to make hardware or software modifications to their switches in some instances, in order to continue to provide intraLATA or EAS calling to their customers. The Rural Telephone Companies do not know, at this time, which specific network hardware modifications would be needed or the exact costs of any such required modifications. Current network equipment has not been engineered to route calls on an NXX-X basis and cannot distinguish multiple terminating switches using the same NXX code.[8]

The Rural Telephone Companies are well aware, however, that major changes will have to be made to small ILECs' OSS, which will be very costly. An ILEC's call billing and rating system must be modified to handle records at the NXX-X level, with multiple V&H coordinates within the same NXX code. Such system modifications will likely require significant expenditures by small ILECs. Establishment of a thousands block number pool may also affect the provision of operator services or payphone operations by small ILECs that, in turn, could further increase operating costs for small ILECs.

As stated above, the Rural Telephone Companies do not know all of the specific changes that would be required to switches and OSS for small ILECs simply because a

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[6] Industry Numbering Committee, INC 98-0703-022, issued July 13, 1998.

[7] We also understand that, for thousands block number assignment to work efficiently, the TPM will have to be updated more frequently, which will most likely increase its price to small ILECs that would not need such frequent updates, but for the use of thousands block number assignment principles by other carriers.

[8] The Rural Telephone Companies understand that it may be possible for the pooling carriers to handle the routing of intraLATA toll or EAS calls through Directory Number Route Indexing ("DRNI"). Under this methodology, a small ILECs would route the call to the switch that corresponds to the NXX code (as listed in the *Local Exchange Carrier Routing* Guide ("LERG"). That carrier would then reroute calls to the carrier's switch that is using the thousands block in which the dialed telephone number is contained either through a direct trunk or through a tandem switch using a temporary "pseudo NPA." However, DRNI appears to be a form of temporary number portability that must be discontinued once long-term number portability has been implemented. *Telephone Number Portability*, Second Memorandum Opinion and Order on Reconsideration, CC Docket No. 95-116, FCC 98-275 (rel. Oct. 20, 1998) at ¶16. Since thousands block pooling relies on long-term number portability technology, it would seem that use of DRNI to complete calls from small ILECs' customers to customers in number pools violates the FCC's rules.

thousands block number pool was established somewhere within the same LATA. Obviously, therefore, we cannot provide the exact costs of compliance for small ILECs. The Rural Telephone Companies have, however, become aware informally of general cost estimates made by some larger ILECs. We understand that one large carrier has estimated that it would incur costs to implement thousands block number pooling in the range of $230,000 per switch, assuming that every switch is converted, excluding remote switches. If not all of these switches are converted, the per-switch cost would be even higher. The Rural Telephone Companies are also aware of another cost estimate, which was made by another large carrier, that is in the range of $3.5-to-$4.5 million, per NPA.[9]

Of course, large carriers have tremendous economies of scale compared with small ILECs, especially those serving rural markets. These high economies of scale drive down the per-switch or per line costs for large ILECs. Accordingly, assuming *arguendo* that $230,000 per-switch is an accurate estimate of the compliance costs for large ILECs, a comparable per-switch compliance cost for a small ILEC is likely to be much higher. Therefore, the Rural Telephone Companies will make a conservative estimate that the reasonably accurate, per-switch compliance cost for a small ILEC is $300,000.[10]

The financial impact of such expenditures on small ILECs is far greater than the impact on large ILECs. Small ILECs, by definition, have fewer customers, which, in turn, pushes the per-customer cost to extreme levels as compared to large ILECs. Data from the FCC's *1997 Preliminary Statistics of Communications Common Carriers* ("*97PSOCCC*") at Table 2.10 show, for example, that BellSouth has an average of 25,800 access lines per switch, excluding remotes. Southern New England Telephone Company ("SNET") has an average of 27,100 access lines per switch, excluding remotes. Even US WEST, which tends to serve less dense markets than other large ILECs, has an average of 23,970 access lines per switch, excluding remotes. Therefore, with a per-switch cost of $230,000, BellSouth would have an average per-customer cost of $8.91, or 74¢ per month, over twelve months. SNET would incur an average per-customer cost of $8.48, or 71¢ per month, over twelve months. US WEST would see an average per customer cost of $9.60, or 80¢ per month, over twelve months. The Rural Telephone Companies take no position herein as to whether the per-customer benefits of thousands block number pooling would exceed the costs for these three large ILECs. However, the Rural

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[9] Other large carriers shared this general cost information with the Rural Telephone Companies on the condition that we do not identify the specific carriers involved. The Rural Telephone Companies assume, however, that all large carriers will share their specific cost estimates to implement thousands block number assignment with the FCC should it request public comment on a cost recovery plan, as proposed herein.

[10] Some small ILECs, which will be affected by the use of a thousands block number pool within their LATA, serve multiple exchanges with multiple switches. In those instances, a small ILEC could incur compliance costs in excess of $1 million, even if the existence of multiple switches could yield some economies of scale.

Telephone Companies do submit that the per-customer costs for these large ILECs are not excessive *per se*.

On the other hand, the per-customer impacts for small ILECs could be financially devastating. Using a per-switch cost of $300,000, an ILEC serving 5,000 access lines from a single switch would incur per-customer costs of $60, or $5.00 per month, over twelve months. An ILEC serving 3,000 access lines would incur a per-customer cost of $100 per month, or $8.33 per month, over twelve months. A very small ILEC with only 600 access lines would be burdened with a per-customer cost of $500, or $41.67 per month. These amounts would be staggering for small ILECs and their customers.

Absent cost recovery targeted to preserve universal service in rural markets, many of these costs would add directly to the price for local service in rural markets, and create a serious risk of driving many customers off the network. Other FCC policies exacerbate the financial risks to rural ILECs that would be created by the implementation of thousands block number pools. As noted above, the institution of a thousands block number pool within a LATA would likely require rural ILECs, which operate in the same LATA and deliver calls to the number pooling area, to revamp their entire billing systems. Many of the costs of modifying the billing system are booked to Account 6720 by rural ILECs. While those costs are classified as corporate operations expenses for universal support purposes and limited by a $300,000 per year cap,[11] the costs associated with the implementation of thousands block number pooling would cause the Rural Telephone Companies to exceed this cap. In view of the FCC policies that are increasing corporate operations expenses for many small ILECs, the FCC should either lift the $300,000 per year cap or, at a bare minimum, exclude costs for modifying small ILECs' billing systems due to changes in the administration of the NANP from this cap.

If the FCC does not provide universal service support for a small ILEC to make the expensive modifications to its network and OSS required by thousands block number pooling, its only other option would seem to be for the small ILEC to discontinue its EAS routes into metropolitan markets where thousands block number pooling exists and to exit the intraLATA toll market completely. The Rural Telephone Companies believe that few customers of small ILECs would support having EAS service discontinued or the inability to use their local telephone company's network to place intraLATA toll calls.

In addition, any small ILEC that exited the intraLATA toll market would see a significant decrease in intrastate revenues. Direct dialed intraLATA toll calls provided 12.1% of the total intrastate revenues for non-RBOC telephone companies in 1996.[12] This percentage is even higher for small and rural ILECs because the 12.1% average

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[11] *Universal Service*, 63 Fed. Reg. 2094, 2100 (1998).

[12] Common Carrier Bureau, *Telecommunications Industry Revenue: TRS Fund Worksheet Data 1996*, Table 19 (Nov. 1997).

includes results for large non-RBOC telephone companies, such as GTE and Sprint - Local Division, that have calling patterns and revenue streams closer to the RBOCs, for which direct dialed intraLATA toll calls constituted only 10.9% of their total intrastate revenues for 1996.[13] Therefore, the financial risk to small ILECs is even greater.

While it is possible that any small ILECs that exited the intraLATA toll market could recoup some of their revenue losses from intrastate access charges, any recoupment would only be partial.[14] The remaining revenue shortfall would most likely have to be shifted to local telephone rates. Therefore, customers of affected small ILECs would likely see local rate increases due to the institution of thousands block number assignment within their LATA, irrespective of what action their local ILEC takes.

The Rural Telephone Companies submit that increasing local rates for small town and rural customers simply to permit more efficient use of telephone numbers in urban markets is not in the public interest. Neither would it be in the public interest for the FCC to ignore the impacts of thousands block number assignment on rural markets until after those negative impacts occur. Rather, the Rural Telephone Companies urge the FCC to address these issues now, before any final regulatory decisions are made. Therefore, the Rural Telephone Companies respectfully request that the FCC seek public comment on the following issues as part of the Commission's review process for the NANC report on thousands block number assignment.

- What is the impact of the introduction of thousands block number assignment within an urban rate area on small ILECs that deliver intraLATA toll calls or EAS calls to other carriers operating within a thousands block number pool?
- What type and amount of cost recovery would be necessary from other carriers that benefit from thousands block number pools to avoid unreasonable increases in local rates in rural markets?
- Should the $300,000 ceiling on the recovery of corporate operations expenses from the federal universal service fund be increased to allow for the recovery of costs associated with implementing thousands block number pooling?
- Would this new cost burden have a negative impact on universal service?

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[13] *Id.* at Table 18B.

[14] There are intraLATA markets in which no IXC would voluntarily serve because of high costs and low calling volumes. On several occasions, the Bell Operating Company has refused to place its name on ballots when a small ILEC has implemented intraLATA toll equal access. Therefore, in some locations the exit from the intraLATA toll market by the local ILEC may constitute a total discontinuance of intraLATA toll service to entire communities -- the antithesis of universal service.

- Absent out-of-market cost recovery for rural ILECs, do the costs of thousands block number pooling outweigh the benefits?

Thank you for your time and interest in this issue of critical importance for small and rural ILECs and their customers. Please direct any questions about these issues to the undersigned.

Very truly yours,

Bay Springs Telephone Company, Inc.,

Roanoke Telephone Company, Inc.,

National Telephone Company of Alabama, Inc.,

Crockett Telephone Company, Inc.,

Peoples Telephone Company, Inc.,

West Tennessee Telephone Company, Inc.

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