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February 19, 1999

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

Re: In the Matter of Petition for Declaratory Ruling
and Request for Expedited Action On the July 15,
1997 Order of the Pennsylvania Public Utility
Commission Regarding Area Codes 412, 610, 215
and 717 - NSD File No. L-97-42

In the Matter of Implementation of the Local
Competition Provisions of the Telecommunications
Act of 1996 - CC Docket No. 96-98

Dear Mr. Strickland:

The Commission issued an order in the above-captioned proceeding that delegated additional number administration authority to state commissions to implement voluntary pooling trials and central office code rationing in certain situations. Also, the Commission authorized the Common Carrier Bureau to delegate additional number administration authority to state commissions. New York State seeks delegated authority to implement various number conservation measures. Enclosed is an original and four copies of the New York State Department of Public Service Petition for Delegated Authority to Implement Number Conservation Measures.

Sincerely,

Lawrence G. Malone

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Enclosure
cc: Attached Service List

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

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NSD File
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FGC MAIL ROOM

In the Matter of Implementation
of the Local Competition Provisions
of the Telecommunications Act of 1996

CC Docket No. 96-98

NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE
PETITION FOR ADDITIONAL DELEGATED AUTHORITY
TO IMPLEMENT NUMBER CONSERVATION MEASURES

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Dated: February 19, 1999
Albany, New York

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NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE
PETITION FOR ADDITIONAL DELEGATED AUTHORITY
TO IMPLEMENT NUMBER CONSERVATION MEASURES

INTRODUCTION AND SUMMARY

The Telecommunications Act of 1996 (the Act) gives the Commission "exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States." 47 U.S.C. 251(e)(1). However, the Commission has delegated portions of its number administration authority to state commissions.¹ Specifically, the Commission delegated authority to state commissions to implement area code (also referred to as numbering plan area or NPA) relief (Local Competition Second

¹ The Act states that the Commission's exclusive jurisdiction over number administration does not "preclude the Commission from delegating to State commissions or other entities all or any portion of such jurisdiction." 47 U.S.C. 251(e)(1).

Report and Order, para. 272),² voluntary 1,000 block number pooling trials, and central office code (NXX code) rationing in certain situations³ (Pennsylvania Area Code Order, para. 24 - para. 27).⁴

The Commission has expressed its interest in working cooperatively with state commissions and invited state commissions to develop creative, innovative solutions to numbering issues (Pennsylvania Area Code Order, para. 30 and para. 31).⁵ Accordingly, we offer several solutions to conserve and more efficiently use numbering resources in New York.⁶ Specifically, we seek delegated authority to: (1) implement

² Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd. 19392 (1996) (Local Competition Second Report and Order).

³ State commissions are authorized to order rationing if (1) the industry is unable to reach a consensus on a rationing plan, (2) the state commission has decided on a specific form of area code relief, and (3) the state commission has established an implementation date for the area code relief plan (Pennsylvania Area Code Order, para. 25).

⁴ In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215 and 717, NSD File No. L-97-42, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Memorandum Opinion and Order on Reconsideration, 13 FCC Rcd. 19009 (Pennsylvania Area Code Order).

⁵ The Common Carrier Bureau has been authorized to delegate additional number administration authority to state commissions (Pennsylvania Area Code Order, para. 54).

⁶ We recognize that national standards for various number conservation measures are under consideration. However, the escalating depletion of number resources in New York requires immediate action to slow the pace of NPA exhaust.

mandatory thousand block pooling trials; (2) explore options for implementing individual telephone number (ITN) pooling and establishing ITN pooling trials where technologically feasible; (3) implement interim unassigned number porting; (4) adopt and enforce number assignment standards; and (5) audit the use of numbering resources in conjunction with the Commission.⁷ The exercise of delegated authority will be performed in compliance with any guidelines or national rules established by the Commission and in collaboration with the industry.

I. The Commission Should Delegate NYDPS Authority to Implement Mandatory Thousand Block Pooling, Individual Number Pooling and Interim Unassigned Number Porting

Advances in telecommunications services, as well as increased competition in the local exchange market, have led to an explosion in the demand for numbers, escalating the rate of exhaust of area codes. In some instances, this increased demand for numbering resources has also given rise to a need for regulatory action to ensure that all carriers have nondiscriminatory access to numbering resources. The creation of new area codes, regardless of the method chosen, also causes customer confusion and dislocation. The potential for number exhaustion also imposes additional costs on carriers because they

⁷ These measures would help forestall or eliminate premature exhaust of numbering resources in New York and slow the introduction of new area codes. (See, Notice seeking comment on NANC Report Concerning Telephone Number Pooling And Other Optimization Measures, NSD File No. L-98-134, released October 29, 1998).

must modify network equipment as well as inform and educate callers regarding number changes and new dialing patterns. Customers also incur costs and suffer inconvenience when required to change their telephone numbers or dialing patterns.

In order to (1) obtain more effective and efficient assignment of existing resources, (2) maintain competitive equity, (3) minimize increases in costs or rates to consumers, and (4) avoid unnecessarily introducing new area codes, we must increase the efficiency of our use of telephone numbers within existing area codes.⁸ Current 10,000 block number assignments are inefficient, particularly where carriers require substantially less than 10,000 numbers to provide service. This practice also causes potential problems to new entrants in obtaining the quantity of numbering resources needed to serve their markets. Further, the practice of assigning numbers by full central office codes, rather than by portions of NXXs or

⁸ The NYPSC has ordered area code relief for New York City (212 and 718 area codes). Case 96-C-1158 Proceeding on Motion of the Commission, Pursuant to Section 97(2) of the Public Service Law, to Evaluate the Options for Making Additional Central Office and/or Area Codes Available in the 212 and 718 Area Codes of New York City. Area code relief is currently being considered for Long Island (516 area code), the lower Hudson Valley (914 area code), and Western New York (716 area code). Case 98-C-0689 Proceeding on Motion of the Commission, pursuant to Section 97(2) of the Public Service Law, to Institute an Omnibus Proceeding to Investigate the Efficiency of Usage of Telephone Numbering Resources and to Evaluate the Options for Making Additional Central Office Codes and/or Area Codes Available in Areas of New York State, When and Where Needed, Ruling Inviting Comments on Staff Paper (issued January 27, 1999). This omnibus proceeding is designed to investigate the means of increasing the longevity of area codes and to provide additional telephone numbering resources throughout New York when and where appropriate.

even individual telephone numbers, to meet the demand for new numbers threatens to exhaust existing area codes in New York much sooner than prior projections by the North American Numbering Plan Administrator (NANPA or Code Administrator).⁹ Thus, we seek additional delegated authority to improve the efficiency of number utilization in New York so that we can better manage and implement area code relief decisions.¹⁰ The conservation

⁹ According to a 1995 Bellcore document, the North American Numbering Plan (NANP) was expected to last until 2025. In fact, the entire NANP is now projected to exhaust by 2007, if not sooner. See attachment to February 4, 1999 letter from Cheryl A. Tritt to Magalie Roman Salas, CC Docket No. 92-237 and WT Docket No. 98-229. In 1996, the Long Island NPA (516) was projected to exhaust in 2003. Current projections indicate a 1999 exhaust date. Also, four additional area codes have been adopted for New York City since 1994 (at that time, an area entirely within the 212 NPA). The following chart illustrates the declining lives of New York area codes.

1985 212 - geographic split introduced 718 NPA
212 - expected life of 15 years
718 - expected life of 70 years

1992 moved Bronx from 212 NPA to 718 NPA
212 - expected life of 12 years
718 - expected life of 32 years
917 - expected life of 18 years

1998 area code overlays introduced 646 and 347 NPAs
212 - expected life of 0 years
718 - expected life of 1 year
917 - expected life of 1 year
646 - expected life of 6.5 years
347 - expected life of 13 years

¹⁰ Often decisions on appropriate area code relief are inextricably intertwined with issues related to number conservation, number allocation, number utilization, and number rationing. Under current industry jeopardy procedures, area code jeopardy is declared before area code relief is requested. Consequently, area codes are already in jeopardy of exhaust when

measures and number assignment standards discussed below should provide additional flexibility as we exercise our authority to implement appropriate NPA relief.

A. Thousand Block Pooling

The Commission has encouraged state commissions to conduct number pooling trials and has explicitly authorized the use of voluntary pooling trials (Pennsylvania Area Code Order, para. 27). Illinois has been authorized to continue a nondiscriminatory mandatory pooling trial. We request delegated authority, similar to that delegated to Illinois,¹¹ to implement nondiscriminatory, mandatory thousand block number pooling.¹²

The NYDPS has actively worked with the industry to implement voluntary thousand block pooling. A pooling trial, in which carriers voluntarily contribute uncontaminated thousand blocks, has been in place in the 212 NPA since July 1998.¹³ On

the process for deciding appropriate relief is begun; and this is the time when effective conservation is most critical.

¹¹ The Commission encouraged states, prior to releasing an order implementing a number conservation plan or a number pooling trial, to seek additional delegated authority similar to that granted Illinois (Pennsylvania Area Code Order, para. 31).

¹² Pooling (both 1,000 block pooling and individual number pooling) modifies the current process by which the quantity of numbers is assigned. Currently, outside of a pooling environment, numbers are allocated by central office codes (in 10,000 blocks).

¹³ The pool was established with the expectation that a national standard for thousand block number pooling would be in place by late 1999.

January 1, 1999 voluntary pooling was adopted for the 718 NPA.¹⁴ Additionally, the New York State Number Pooling Steering Committee has begun initial discussions on expanding pooling to include central office codes in the new NPA chosen for relief of the 516 NPA.¹⁵ However, the continued rapid depletion of existing numbering resources and the relatively few 1,000 blocks voluntarily contributed to the existing pools requires delegation of Commission authority to implement mandatory number pooling.¹⁶

Mandatory pooling would be more effective than the voluntary trials currently underway.¹⁷ Under voluntary pooling, carriers have not fully participated, particularly the incumbent, reducing the effectiveness of this number conservation measure.¹⁸ Numbers continue to be assigned in 10,000 blocks regardless of

¹⁴ Initial donations will be made by February 15, 1999, and applications for assignments will begin March 1, 1999.

¹⁵ A NYDPS staff paper, released January 27, 1999, discusses various alternatives for area code relief in the 516 NPA.

¹⁶ Mandatory 1,000 block pooling would require that: (1) all LNP capable carriers participate, (2) all number assignments to LNP capable carriers be made from the pool, and (3) initial contamination rates gradually increase to meet the demand for numbers. The mandatory pooling trial would be consistent with the pooling architecture recommended by NANC and endorsed by the industry.

¹⁷ NYDPS staff have spent an inordinate amount of time and effort coordinating voluntary participation in the pool to maximize the pool's effectiveness.

¹⁸ In cases where carriers choose to participate, they may then opt to make only "token" donations to the pool. For example, thirty four blocks have been donated to the 212 NPA pool; and, as of February 2, 1999, five assignments have been made. Pursuant to industry consensus, assignments are made on a first-come, first-served basis.

whether the carrier needs a full central office code to provide service.¹⁹ In contrast, requiring all LNP capable carriers to participate in a pooling trial, particularly carriers with large quantities of unused or under-utilized numbering resources, will significantly increase the viability of the pool as it produces more meaningful number conservation.²⁰ Further, mandatory pooling is an efficient means for allocating numbering resources when a carrier wishes to establish a presence in a specific geographic area.

We recognize that pooling is not a substitute for area code relief in exhaust situations, but, as NANC has acknowledged, it can improve number use and enhance competition.²¹ It is a valuable tool to remedy wasteful allocation and inefficient use of numbering resources, particularly when NPA exhaust is the

¹⁹ For example, carriers in New York City can obtain full central office codes from the 917 NPA rather than participate in the 212 or 718 pools.

²⁰ Where there is low utilization of numbers in a given NXX code, pooling could dramatically increase "fill rates" and assure more efficient use of numbering resources. Also, the assignment of numbers in smaller blocks brings greater discipline to the number assignment process. For example, where a carrier has obtained one block of 1,000 numbers within a central office, requiring utilization information before another block of 1,000 numbers within the same central office is assigned (as we propose below), would encourage more efficient number use. Reducing the size of the block, and imposing usage thresholds as a condition to further assignment eligibility, would establish greater accountability. Pooling also enhances competitive equality. It ensures not only that carriers will have equal access to numbers and NXX codes within newly created NPAs, but also that all carriers will obtain greater access to numbers within existing area codes.

²¹ See NANC December 22, 1997 number pooling letter from Alan Hasselwander to A. Richard Metzger, Jr.

alternative. Mandatory pooling would provide the flexibility needed to better manage existing numbering resources, and, therefore, would help decrease the frequency with which NPA relief is required. Extending the availability of numbers in an at risk NPA will benefit all carriers.

B. Individual Telephone Number Pooling

We request further delegation of Commission number administration authority to explore the feasibility of individual telephone number pooling (ITN) and to launch trials where and when technically feasible. Individual telephone number pooling not only offers the same benefits offered by 1,000 block pooling, but allows for more effective number assignment efficiencies, increased number conservation and greater access to numbering resources.

ITN pooling architecture has not been given significant priority because most number conservation efforts have focused on 1,000 block number pooling. Although some carriers may be reluctant to move forward to achieve ITN pooling, a trial could provide useful information for developing national standards. We, therefore, request the flexibility to explore this option. If further investigation of this option demonstrates that ITN pooling can be implemented as an efficient and effective conservation measure, we would implement it in a nondiscriminatory, technologically neutral manner.

C. Interim "Unassigned" Number Porting

We request authority to adopt unassigned number porting as an interim measure until ITN pooling becomes widely available. Unassigned number porting can serve as an important stop gap measure to slow the rapid depletion and inefficient use of numbering resources.²² It can be used in critical situations when a service provider needs numbers to serve a new customer in a specific rate center and numbers are not available for assignment to the carrier.²³

Unassigned number porting also provides an alternative to 1,000 block pooling where carriers need less than 1,000 numbers from a central office code. For carriers that can port numbers assigned to customers, porting unassigned numbers should be easier from a technical standpoint, especially since there are no physical connections to change in the central office (because there is no customer physically connected to the network) and since it is not necessary to convert billing and other customer records. This measure would be used on a short-term basis and where a carrier can demonstrate a need for the unassigned number(s) to serve specific customers.

²² Unassigned number porting allows carriers to transfer telephone numbers among themselves for assignment to a specific customer.

²³ Unassigned number porting, which uses the existing LNP architecture, can be used where other more efficient conservation measures are not available. It also has the potential to capture the millions of unused numbers within NXX codes that have been assigned to carriers.

II. The Commission Should Delegate NYDPS's Authority to Adopt Enforcement Mechanisms and Audit Requirements to Achieve More Efficient Allocation and Use of Numbering Resources

A. Number Assignment Standards and Enforcement

Whatever number conservation measures are implemented, either on a short-term or long-term basis, successful number administration requires more stringent standards for allocating numbers, as well as more effective enforcement, to ensure that the standards are met. Currently, number assignment requests are often made to establish a presence in a specific geographic area (e.g., each rate center within an NPA) rather than specific customer demands for service.²⁴ We seek authority to develop a more specific needs-based approach for number assignments than the process currently in place. A carrier could be required to demonstrate that its existing numbering inventory is inadequate to provide service to customers or that it has to rely on costly measures to supply service.

We propose to adopt more needs-based number assignment standards to optimize number utilization. To accomplish this goal, we seek additional delegated authority to: (1) establish "fill rates" for assigned numbers (at both the NXX and 1,000 block levels) before additional numbering resources are

²⁴ Current industry practice requires carriers to "certify" the need for central office code allocations without any demonstration or verification of that need.

assigned;²⁵ (2) require carriers to return NXXs and 1,000 blocks, if not needed or used within a specified period after assignment; (3) require completion of a utilization survey before numbers are assigned; (4) adopt rationing plans, in the event industry consensus is not reached, after jeopardy has been declared but prior to an area code relief decision, and (5) enforce compliance with number assignment requirements and conservation measures.²⁶

1. Fill Rates

The exponential increase in NPA exhaust is likely to continue unless state commissions are given greater flexibility to require more efficient use of existing numbering resources in conjunction with area code relief considerations. At a minimum, carriers should be required to maximize the use of an NXX before another NXX is assigned. Our experience in New York indicates that some carriers have a very low number utilization rate in many of the central office codes assigned to them. Thus, we seek authority to establish minimum fill rates to enhance our efforts to respond appropriately to area code relief by requiring more efficient and effective use of numbering resources.

²⁵ In the Pennsylvania Area Code Order, the Commission authorized state commissions to establish usage thresholds in conjunction with an area code relief decision and a rationing plan (para. 24). We seek authority to establish minimum fill rates even in area codes where we have yet to establish relief plans and/or schedules.

²⁶ As noted above, this authority will be carried out in a manner consistent with national guidelines or rules established by the Commission.

2. Reclamation Procedures

Under current industry guidelines, central office codes are to be returned to the Code Administrator if the NXX code is no longer needed or is not activated within six months of assignment. The guidelines also allow NXX codes to be reserved for up to 18 months, with possible extensions for another six months. Noncompliance is to be referred to the Industry Numbering Committee, and if a consensus is not reached, the matter is to be referred to the appropriate regulatory body. This process is inefficient and cumbersome, particularly in a competitive environment. In fact, the industry in New York has not enforced compliance with these guidelines. Until national standards or rules are adopted, we would like authority to tighten and enforce these time frames so that central office codes are used more judiciously.

3. Utilization Surveys

Current industry number assignment guidelines do not require carriers to provide number utilization data with their applications for additional central office codes. Although demand forecasts are generally provided, this information does not address whether carriers are using existing numbering resources efficiently. It is important to ensure that already assigned numbering resources are being used efficiently before additional resources are assigned. Also, utilization data will help determine compliance with fill rates. Moreover, it is

difficult to explain to consumers the need to introduce additional area codes when number use within existing area codes is often quite low. Accordingly, all carriers should be required to complete a utilization survey before additional numbers are assigned. We seek delegated authority to adopt minimum requirements for utilization surveys.

4. NXX Rationing

In some respects, the area code relief rules and guidelines become obstacles to prevention, particularly the limits placed on state commissions to order central office code rationing. Current industry central office code rationing procedures do not always allow carriers to obtain numbers readily in order to respond to customer demand for service.²⁷ Most industry rationing plans use a lottery system, which does not target number assignments to the carriers with the most critical needs for numbering resources.

The Commission has authorized states to initiate NXX rationing, when industry consensus is not achieved, only if a decision on area code relief has been made and an implementation

²⁷ Recently, we encountered two situations where rationing procedures were in place and extraordinary measures were required to assign numbering resources to carriers in order to provide service. In one situation, the carrier obtained direct inward dialing service (allowing the carrier to obtain the quantity of numbers needed to serve a customer) from the incumbent local exchange carrier and then "ported" the numbers allocated to this service. In the second situation, the Code Administrator was asked to release central office codes to a carrier earlier than scheduled.

date set.²⁸ However, central office code rationing issues are often inextricably intertwined with area code relief considerations, and usually, a rationing plan is required before area code relief can be addressed.²⁹ Without additional delegated authority, we are sometimes frustrated in our efforts to timely address needed NPA relief. Delegated authority to adopt rationing procedures prior to an NPA decision will better enable the NYPSC to fashion meaningful NPA relief. This request is consistent with the Commission's policy, noted in the Local Competition Second Report and Order, that state commissions are uniquely positioned to understand local conditions that affect area code relief decisions.³⁰

5. Enforcement

Current enforcement practices rely primarily on industry self-policing. Although effective self-policing would be ideal, in practice, such enforcement has been ineffective. It may be impractical for the industry to self-police number assignment and utilization requirements inasmuch as some carriers may consider number usage information competitively sensitive.

²⁸ California has petitioned for reconsideration of the Commission's requirement that allows state involvement in area code rationing only if a specific form of area code relief has been decided and an implementation date set.

²⁹ In New York, a notice and comment proceeding (with public outreach) is being used to examine the issues related to area code relief. Central office code rationing is required while area code relief is under consideration.

³⁰ Local Competition Second Report and Order, para. 272.

Regulatory intervention, rather than industry consensus decision-making, may be more effective where individual carriers do not comply with policies or procedures.³¹ Our familiarity with local circumstances and our regulatory expertise places us in the best position to respond quickly to non-compliance.

B. Auditing

Effective auditing is necessary to ensure compliance with number assignment and utilization requirements. The current guidelines do not define the scope of audits that might be undertaken and, to our knowledge, auditing has never been conducted since current standards have been in effect. We propose to increase industry accountability by conducting number utilization audits (to ensure that numbering resources are being properly used).³² The purpose of the audits would be to determine that only applicants with bona fide needs for additional numbering resources receive them and to ensure that already assigned numbering resources are being used efficiently. Additionally, for further planning and crisis prevention

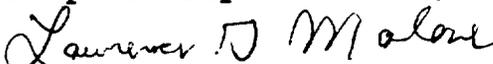
³¹ Regulatory intervention is more likely to implement and/or enforce reclamation procedures and resolve disputes concerning assignments and rationing to ensure that all carriers have access to numbering resources.

³² Current industry guidelines do not require much justification from a carrier requesting numbers. We are aware that the NANPA is developing an audit framework for central office code administration that is to be presented to the NANC. We would work with the NANPA to enforce any state-specific guidelines. To the extent the Commission would like to conduct joint audits, we welcome such collaboration.

purposes, audits will establish a credible information base for evaluating needs-based number assignment standards.

CONCLUSION

The increasing rate of number assignments, and NPA exhaust, is problematic. The ability to implement number conservation measures and to explore alternatives to the current inefficient number assignment process are necessary to adopt more effective area code relief. Accordingly, the NYDPS requests additional delegated authority to implement the measures discussed herein to ensure more effective numbering resource utilization.

Respectfully submitted,

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Dated: February 19, 1999
Albany, New York

In the Matter of

Implementation of the Local Competition
Provisions of the Telecommunications Act
of 1996

CERTIFICATE OF SERVICE

I, Lucille T. Dillenbeck, hereby certify that an original and four (4) copies of comments in the above-captioned proceeding were sent via Airborne Express to Lawrence E. Strickling, Chief of the Common Carrier Bureau of the Federal Communications Commission. In addition, copies were sent by First Class Mail, postage prepaid, to all parties on the attached service list.

Lucille T. Dillenbeck

Dated: February 19, 1999
Albany, New York

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