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

Common Carrier Bureau
Network Service Division
Office of the Chief

Public Notice)
)
Common Carrier Bureau Seeks Comment)
on Florida Public Service Commission)
Petition for Authority to Implement)
Number Conservation Measures)

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

NSD File No. L-99-33
DA 99-725

CC DOCKET 96-98

**COMMENTS OF THE PERSONAL
COMMUNICATIONS INDUSTRY ASSOCIATION**

The Personal Communications Industry Association ("PCIA"),¹ by its attorneys, hereby respectfully submits its comments on the Commission's *Public Notice* in the above-captioned proceeding.² PCIA, as a major wireless trade association, has consistently supported a strong federal role in supervising a unified, nationwide numbering system that ensures that all carriers are provided with an adequate supply of telephone numbers. Because grant of the authority requested by the Florida petition will compromise this unified numbering scheme, and might discriminate against certain carriers, this Petition should be denied.

¹ PCIA is an international trade association established to represent the interests of the commercial and private mobile radio service communications industries and the fixed broadband wireless industry. PCIA's Federation of Councils includes: the Paging and Messaging Alliance, the PCS Alliance, the Site Owners and Managers Association, the Association of Wireless Communications Engineers and Technicians, the Private Systems Users Alliance, the Mobile Wireless Communications Alliance, and the Wireless Broadband Alliance. As an FCC-appointed frequency coordinator for the Industrial/Business Pool frequencies below 512 MHz, the 800 MHz and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of FCC licensees.

² Public Notice, *Common Carrier Bureau Seeks Comment on Florida Public Service Commission Petition for Additional Authority to Implement Number Conservation Measures* NSD File No. L-99-33, DA 99-725 (Apr. 15, 1999).

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I. INTRODUCTION AND SUMMARY

On April 5, 1999, the Commission received a petition from the Florida Public Service Commission (“FPSC” or the “Petitioner”) requesting additional authority to implement a variety of numbering conservation methods. The FPSC requested authority to: (1) implement mandatory thousands block pooling; (2) expand deployment of permanent number portability; (3) begin unassigned number porting; (4) employ certain number assignment standards including enforcement of “fill rates,” number reclamation, utilization surveys, and code rationing; (5) implement Extended Local Calling Areas (“ELCAs”); (6) use Inconsistent Rate Centers (“IRCs”); and (7) maintain rationing after the implementation of area code relief plans.³ The FPSC also asked the Commission to direct the North American Numbering Plan Administrator (“NANPA”) to establish code allocation standards and update the Central Office Code Utilization Survey on a quarterly basis.⁴ The Petitioner claims that such conservation measures are necessary due to the increasing demand for telephone numbers, which is leading to the rapid exhaust of Florida’s Numbering Plan Areas (“NPAs”).⁵

While the FPSC raises legitimate concerns about the costs associated with NPA exhaust, it is vital that the Commission continue to maintain federal control to ensure a unified system of numbering administration that does not discriminate against any class of carriers. Although some elements of Florida’s proposal are similar to the other recent state requests for numbering

³ Florida Public Service Commission Petition for Authority to Implement Number Conservation Measures (filed Apr. 5, 1999) (“*FPSC Petition*”).

⁴ *FPSC Petition* at 5.

⁵ *Id.* at 2-3.

authority that have been filed with the Commission,⁶ there are still significant differences between these various requests that would require carriers to obtain numbering resources in different ways in these states. Moreover, Petitioner has requested authority to fashion a “Florida specific solution to its existing number crisis,” presumably from among the various conservation measures listed in its Petition.⁷ As a result, carriers might be subject to inconsistent state-by-state requirements in the administration of numbering systems. Finally, it is vital that the Commission ensure that the proposed solutions do not discriminate against any segment of the industry. For example, some of the measures proposed by the FPSC—including number pooling—have the potential to discriminate against certain carriers because they rely upon the ability to implement local number portability (“LNP”).

PCIA firmly believes that the Commission must act to protect and preserve an essential element of the North American Numbering Plan (“NANP”)—its nationwide consistency. If, however, the FCC does decide to give the FPSC the option to deviate from the established procedures for assigning numbering resources, then it must require that these changes be implemented pursuant to nationwide standards. In addition, no state should be permitted to unfairly hinder any carrier’s ability to obtain numbering resources. Thus, any number conservation program that relies on LNP must provide non-LNP capable carriers access, on a non-discriminatory basis, to a source of numbers.

⁶ See, e.g., Massachusetts Department of Telecommunications and Energy’s Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes (filed Feb. 19, 1999); New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures (filed Feb. 22, 1999).

⁷ *FPSC Petition* at 6.

II. WHILE THE FPSC RAISES A NUMBER OF VALID CONCERNS, THE FCC SHOULD CONTINUE TO MAINTAIN FEDERAL CONTROL OVER A UNIFIED SYSTEM OF NUMBERING ADMINISTRATION IN THE UNITED STATES

The Florida Public Service Commission raises a number of valid concerns regarding the rapidity with which NPAs are being exhausted. For instance, the FPSC states that six of the nine new area codes created in Florida in 1995 “may be in jeopardy or extraordinary jeopardy” at this time.⁸ Yet, even though the NANPA has declared these NPAs to be in jeopardy, the FPSC notes that “there is information that the number blocks currently distributed in each area code have been underutilized.”⁹ The FPSC therefore argues that it needs additional numbering authority “to minimize customer confusion and expenses associated with imposing new area codes so quickly.”¹⁰

While the problems cited by Florida are real, the Commission must take steps to ensure that the proposed number conservation measures do not compromise other, more important, aspects of the NANP. In particular, an individualized state-by-state approach will denigrate the unified nature of the national telecommunications infrastructure, contrary to the intent of Congress in amending the Communications Act in 1996.

In the 1996 Telecommunications Act, Congress gave the Commission “exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United

⁸ *FPSC Petition* at 1.

⁹ *Id.* at 2.

¹⁰ *Id.* at 7.

States.”¹¹ The Commission noted that Congress acted in this manner in recognition that “ensuring fair and impartial access to numbering resources is a critical component of encouraging a robustly competitive telecommunications market in the United States.”¹² PCIA has consistently argued that the Commission should exercise this grant of jurisdiction because a national numbering policy is essential to the efficient provision of telecommunications service.¹³ In fact, a nationwide policy is particularly important to the wireless market because such carriers operate without regard to state boundaries.

The Commission, in its *Pennsylvania Order*, explained why national numbering policies are necessary:

A nationwide, uniform system of numbering is essential to the efficient delivery of telecommunications services in the United States ... Substantial social and economic costs would result if the uniformity of the North American Numbering Plan were compromised by states imposing varying and inconsistent regimes for number conservation and area code relief. Such inconsistency could interfere with, or even prevent, the routing of calls in the United States. The lack of uniformity also could hamper the industry’s efforts to forecast and plan properly for exhaust of the North American Numbering Plan, and therefore ultimately could

¹¹ 47 U.S.C. § 251(e)(1).

¹² *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 19392, 19508 (1996) (“*Local Competition Second Report and Order*”).

¹³ See, e.g., Comments of PCIA on Public Notice, *Common Carrier Bureau Seeks Comment on Massachusetts Department of Telecommunications and Energy Petition for Waiver to Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes*, NSD File No. L-99-17, DA 99-460 (filed April 5, 1999); Comments of PCIA on Public Notice, *Common Carrier Bureau Seeks Comment on New York Department of Public Service Petition for Additional Authority to Implement Number Conservation Measures* NSD File No. L-99-21, DA 99-462 (filed April 5, 1999); Comments of PCIA on Public Notice, *Common Carrier Bureau Seeks Comment On North American Numbering Council Letter Seeking Clarification of the Term ‘Technology Neutral,’* DA 97-2234 (filed Oct. 29, 1997).

accelerate unnecessarily the introduction of a new nationwide numbering plan. Introduction of a new plan would mean costly network upgrades to accommodate a new dialing scheme that would be confusing to consumers.¹⁴

Therefore, the Commission admonished all parties to “work together to bring about as quickly as possible national methods to conserve and promote efficient use of numbers *that do not undermine that uniform system of numbering.*”¹⁵

Against this background, Florida has proposed one conservation method—improved methodologies for collecting data on number usage—which, if implemented subject to national guidelines, would serve the public interest. PCIA, in its comments on the *NANC Report*, also has endorsed certain of the conservation measures proposed by the Petitioners, including:

(1) Extended Local Calling Areas (“ELCAs”); (2) Inconsistent Rate Centers (“IRCs”); and (3) elimination of certain protected central office codes.¹⁶ PCIA supports these specific methods of managing numbering resources because they optimize the utilization of telephone numbers without discriminating against any particular segment of the telecommunications industry.

While PCIA supports the use of these number conservation methods, the Commission should not abandon its role as the Congressionally-sanctioned arbiter of the nationwide numbering system. Thus, in the event that the Commission allows the states to act, it must

¹⁴ *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 (Memorandum Opinion and Order and Order on Reconsideration), FCC 98-224, at ¶ 21 (rel. Sept. 28, 1998) (“Pennsylvania Order”).*

¹⁵ *Pennsylvania Order*, ¶ 21 (emphasis added).

¹⁶ See PCIA Comments on Public Notice, *Common Carrier Bureau Seeks Comment on North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Measures*, NSD File No. L-98-134 (filed Dec. 21, 1998).

develop some set of national standards or unifying elements so that carriers do not eventually face a myriad of different numbering regulations and standards. As the *Pennsylvania Order* noted, such a Balkanization of the nation's numbering policies will interfere with the routing of calls and will add to the cost of doing business for all carriers operating in different states.¹⁷

III. THE LNP-BASED CONSERVATION METHODS PROPOSED BY THE FPSC, IF PERMITTED, MUST BE IMPLEMENTED PURSUANT TO NATIONWIDE STANDARDS, AND NON-LNP CAPABLE CARRIERS MUST HAVE ALTERNATIVE SOURCES OF NUMBERS

As noted above, national standards for the allocation of numbering resources are essential to maintaining an efficient and competitively neutral telecommunications industry. Further, telephone numbers are one of the essential elements of a well functioning telecommunications marketplace, without which no carrier can provide service to its customers. Full and fair access to telephone numbers is thus critical to the ability of carriers to satisfy consumers and to serve their customers' needs. This is particularly true in the wireless industry, where there is substantial continued demand for new telephone numbers, and new carriers must compete against incumbent providers with already large customer bases. Without non-discriminatory access to telephone numbers, wireless carriers will be handicapped in their ability to contract with new subscribers and service the needs of existing subscribers. Under such circumstances, CMRS providers will quickly feel the adverse economic effects of inadequate access to numbering resources and customers will lose a measure of competition within the marketplace.

The Commission has recognized the competitive importance of the unfettered availability of telephone numbers. Specifically, the *Pennsylvania Order* mandates that NPA relief plans

¹⁷ *Pennsylvania Order*, ¶ 21.

must “facilitate entry into the telecommunications marketplace by making numbering resources available on an efficient and timely basis to carriers.”¹⁸ The *Pennsylvania Order* is similarly direct when it comes to prohibiting discrimination against wireless carriers in the allocation of numbering resources by limiting the availability of new numbers to LNP-capable carriers: “[T]he use of number pooling and transparent overlays unduly disfavored wireless and non-[LNP] capable carriers because it did not provide adequate assurances that those carriers would have access to numbering resources.”¹⁹

Thus, the Commission’s precedent clearly states that any numbering optimization measures must ensure that all carriers, regardless of the technology they use, have equal and unfettered access to the telephone numbers they need to meet the expanding needs of new and existing subscribers. Against this background, if the Commission chooses to implement an optimization measure that relies on LNP-based methods, it must ensure that non-LNP capable carriers have access to alternative sources of telephone numbers. A large number of carriers—both wireline and wireless—are not currently required to be LNP-capable, and may not ever be required to implement this capability.²⁰ These carriers obviously must be able to obtain numbers on a comparable basis to other service providers.

¹⁸ *Pennsylvania Order*, ¶ 37; see also *Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois*, 10 FCC Rcd 4596, ¶ 19 (1995) (“The ready availability, and use, of numbering resources by communications services providers is essential if the public is to receive the communications services it wants and needs.”); *Local Competition Second Report and Order*, ¶ 291 (“[F]ederal numbering guidelines [are] designed to ensure the fair and timely availability of numbering resources to all telecommunications carriers.”).

¹⁹ *Pennsylvania Order*, ¶ 40.

²⁰ Paging companies will not be required to implement LNP at any time and broadband CMRS carriers are not required to implement local number portability in the top 100 MSAs until
(Continued...)

Even beyond these competitive concerns, however, PCIA has a number of practical concerns involving LNP-based approaches, including the thousands block pooling and unassigned number porting solutions suggested by Petitioner. Preliminarily, these LNP-based methods might not conserve as many telephone numbers as their proponents allege. As noted above, significant numbers of carriers are currently not LNP-capable. The number of LNP-exempt carriers is particular great in the areas of the country where thousands block fill rates are uniformly low, such as rural areas. Therefore, LNP-based solutions cannot be used with any efficacy in these pockets of inefficient number usage.

Finally, as pointed out in the *NANC Report*,²¹ unassigned number porting has a number of specific practical disadvantages. First, UNP seems to encourage the “mining” of numbers, as one carrier can take another carrier’s desirable numbers without the other carrier’s consent. Second, UNP will punish those service providers that have efficiently managed their numbering resources, while those carriers that have not done so will be able to continue their mismanagement and still get telephone numbers, even in a jeopardy situation. Third, because the effectiveness of unassigned number porting is based directly on the number of service providers

(...Continued)

November 24, 2002. *CTIA’s Petition for Forbearance from Commercial Mobile Radio Service Number Portability Obligations* (Memorandum Opinion and Order), WT Docket No. 98-226, CC Docket No. 95-116 (Feb. 9, 1999).

In addition, LECs are only required to implement LNP upon a *bona fide* request from another carrier, and LECs “with fewer than 2 percent of the Nation’s subscriber lines” can petition a state commission to modify or suspend the number portability requirements. *Telephone Number Portability* (Third Report and Order), 13 FCC Rcd 16090, ¶ 17 & n.63 (1998) (quoting 47 U.S.C. § 251(f)(2)).

²¹ *Number Resource Optimization Working Group Modified Report to the North American Numbering Council on Number Optimization Methods*, 129-30 (Oct. 21, 1998).

participating in the scheme, if only a limited number of providers are able to take part in any given area, this method will only have a minimal impact on number exhaust.

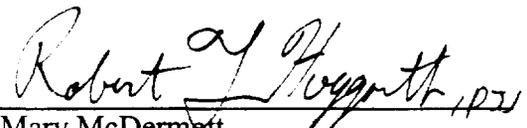
IV. CONCLUSION

PCIA endorses the efforts to ensure more efficient allocation of numbering resources within the North American Numbering Plan, with the goal of preventing premature and unnecessary NPA exhaust. Such conservation measures will help to ensure that all carriers have an adequate supply of telephone numbers, which will encourage competition in the telecommunications industry. In its efforts to optimize number utilization, however, the FCC must make sure that state plans to conserve numbers do not upset the unified structure of the NANP and that those measures are fair to all segments of the telecommunications industry. Therefore, the *FPSC Petition* should be denied.

Respectfully submitted,

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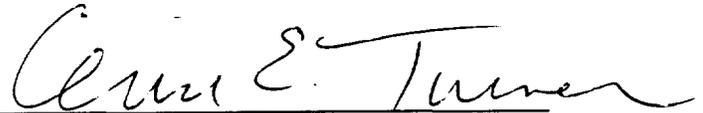
CERTIFICATE OF SERVICE

I, Cerise E. Turner, do hereby certify that on this 14th day of May, 1999, a copy of the foregoing was served, by the method so described, to the parties listed below:

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