

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Connecticut Department of Public Utility Control)	RM No. 9258
Petition for Rulemaking to Amend the Commission's)	
Rule Prohibiting Technology-Specific or)	
Service-Specific Area Code Overlays)	
)	
Massachusetts Department of Telecommunications)	NSD File No. L-99-17
and Energy Petition for Waiver to Implement a)	
Technology-Specific Overlay in the)	
508, 617, 781, and 978 Area Codes)	
)	
California Public Utilities Commission and the People)	NSD File No. L-99-36
of the State of California Petition for Waiver to)	
Implement a Technology-Specific or Service-Specific)	
Area Code)	

COMMENTS OF WINSTAR COMMUNICATIONS, INC.

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SUMMARY

WinStar applauds the Commission's ongoing efforts to slow the rate of number exhaust in the United States and prolong the life of the North American Numbering Plan. WinStar believes that there are a number of measures suggested by the Commission in the *NPRM* that can be implemented -- in some cases with modifications suggested by WinStar -- to utilize the numbering resource more efficiently; however, WinStar also believes that some of the proposals would be counterproductive. In addition, WinStar urges the Commission to consider some additional measures, not discussed in the *NPRM*, that will help to accomplish the agency's numbering goals.

First, and perhaps most importantly, WinStar urges the Commission to ensure that this proceeding results in the adoption of *mandatory* rules and guidelines governing the allocation and use of numbering resources, and that these rules and guidelines are implemented on a national basis. WinStar believes that because of their voluntary nature, the current industry guidelines have not been tremendously effective in ensuring the proper use of the numbering resource.

In this regard, while WinStar appreciates the Commission's desire to take advantage of the knowledge and experience of the various states and of the industry concerning numbering optimization strategies, WinStar submits that their involvement in the establishment of a nationwide numbering scheme should primarily be advisory. Accordingly, the Commission should refuse to delegate to the states any additional authority over numbering issues, and, similarly, should discard its suggestion that service providers be given their choice of which numbering optimization strategies they will implement.

In sum, only a *mandatory, national* scheme will ensure that all carriers providing services throughout the United States operate within the numbering framework adopted in this proceeding, and hence that no carrier will achieve an unfair competitive advantage as a result of improper use of the resource. For these same reasons, WinStar submits that the Commission must specify that the rules and guidelines arising out of this proceeding apply equally to all service providers, regardless of the technology they use -- unless a compelling technical reason or the interests of competitive neutrality justify a minor and short-term exception.

WinStar believes that an essential part of any successful national regulatory numbering scheme will continue to be the implementation of appropriate area code relief. However, the Commission must ensure that area code relief is approached with caution and the input of the various states and all industry segments in order to understand both the benefits and drawbacks of each relief method. WinStar believes that geographic splits and overlays each have merits as a primary relief method: generally, geographic splits for areas where the resulting NPA boundaries encompass an area greater than 2,000 square miles (but *never* implemented so as to split a rate center), and overlays for smaller areas. However, while overlays can be appropriate under certain circumstances, WinStar notes that service- and technology-specific overlays have been proven ineffective, and should not be implemented.

Other numbering optimization measures proposed in the *NPRM* will contribute to the establishment of a successful national regulatory numbering scheme. Two of the most important of these are rate center consolidation and mandatory ten-digit dialing. First, in areas with large local calling areas, rate center consolidation -- which permits service providers to use fewer NXX codes throughout a region -- should be the primary form of optimization. In addition,

WinStar strongly urges the Commission to adopt and implement nationwide mandatory ten-digit dialing, which is one of the most efficient and effective optimization measures proposed in the *NPRM*. WinStar notes that ten-digit dialing facilitates the implementation of other, more important optimization methods -- particularly area code relief.

The Commission also has proposed the adoption of a variety of number pooling schemes. WinStar believes that the use of thousands-block pooling is a potentially valid part of a comprehensive solution to the numbering crisis, although WinStar is not convinced of the efficacy of the pooling trials which currently are in place. Specifically, WinStar believes that the trials simply are too new to judge accurately whether the administrative procedures and technology are proper, efficient, or even competitively neutral. Accordingly, WinStar urges the Commission to delay deployment of thousands-block pooling at this time. However, in the event that the Commission determines that thousands-block pooling should be implemented on an expedited basis, WinStar urges the Commission to limit initial deployment to the top 100 MSAs, and, more importantly, to ensure that pooling is implemented only pursuant to a mandatory national scheme.

The Commission also has sought comment on the relative merits of individual telephone number pooling and unassigned number porting. NANC has estimated that four to six years would be necessary to implement ITN or UNP; WinStar agrees with the NANC estimate, and, further, believes that pursuit of ITN and UNP should be delayed until hard and fast guidelines and administrative methods and procedures are in place to prevent gaming and other abuses of the resource. Specifically, WinStar believes that ITN would be prohibitively costly; UNP is the most vulnerable to unscrupulous service providers and should *only* be permitted when there is

mutual agreement between two service providers. For these reasons, WinStar submits that neither ITN nor UNP should be implemented in the near term.

WinStar agrees that one of the major causes of number exhaust is the lack of discipline in the process by which numbering resources are administered and allocated. Accordingly, WinStar submits that the Commission should strengthen and modify certain of the procedures for the allocation of numbering resources, and, of course, implement these measures as uniform, mandatory federal rules. One of the most important of these controls is a requirement that service providers be required to achieve a suitable number utilization rate before they may request additional NXX codes: carriers should *not* be permitted to apply for growth codes for the purpose of building or carrying excessive inventories of numbers.

However, the Commission must ensure that the requirement to achieve a certain level of number usage does not unfairly impact new entrants as compared to incumbent providers. Accordingly, WinStar submits that utilization rates for new entrants must be less stringent than those imposed on incumbents -- such as, for example, a 35 percent fill rate for new entrants and a 55 percent rate for incumbents. If implemented carefully and in a competitively neutral manner, utilization rates can function as an important incentive for the efficient use of the numbering resource.

Similarly, WinStar urges the Commission to adopt national telephone number reservation rules that will prevent service providers and end users from hoarding scarce number resources, and, correspondingly, will maximize the immediate use of telephone numbers. WinStar believes that "perpetual" telephone number reservations, especially by large end users, contributes substantially both to area code exhaust and, ultimately, to the exhaust of the NANP.

Further, WinStar believes that Commission review of relevant data submitted by and collected from service providers will be of immeasurable assistance to the agency in ensuring compliance with its numbering scheme. Specifically, all service providers must be required to provide quarterly number utilization reports at the thousands-block level, at a minimum. In addition, in order to ensure the validity and accuracy of utilization data submitted in these reports, the Commission must require all service providers to undergo regularly scheduled audits beginning one year after the initiation of service, and occurring triennially thereafter. These regularly scheduled audits should be supplemented, in the case of service providers that have violated the FCC's rules and guidelines, with "for cause" and random audits. All information submitted to or gathered by the Commission must be accorded confidential treatment.

Finally, WinStar urges the Commission to consider two measures not proposed in the *NPRM*. First, the FCC should adopt a rule which would require any tenant reseller with 1,000 or more lines at a single premise location to obtain certification as a service provider. As such, the tenant reseller would be subject to the same rules as any service provider, including those numbering rules adopted in this proceeding. Second, the agency should abolish the rule requiring service providers to have a "footprint" NXX code in each rate center where it operates.

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COMMENTS OF WINSTAR COMMUNICATIONS, INC.

WinStar Communications, Inc. ("WinStar"), by its attorneys, hereby respectfully submits these comments on the Commission's Notice of Proposed Rulemaking released on June 2, 1999 in the above-captioned proceeding.¹ WinStar is a wireline competitive local exchange carrier ("CLEC"), using fixed wireless technology, with operations throughout the top 50 Market Service Areas ("MSA") in the United States.

¹ *In the Matter of Numbering Resource Optimization, Connecticut Department of Public Utility Control Petition for Rulemaking to Amend the Commission's Rule Prohibiting Technology-Specific or Service-Specific Area Code Overlays, Massachusetts Department of Telecommunications and Energy Petition for Waiver to Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes, California Public Utilities Commission and the People of the State of California Petition for Waiver to Implement a*
(continued...)

I. INTRODUCTION

WinStar shares the concerns of the Commission and the industry as a whole that the current North American Numbering Plan ("NANP") is exhausting at an alarming rate, and applauds the FCC's ongoing efforts to ensure that telecommunications numbering resources remain readily available to support the burgeoning demand for telecommunications and information services. Further, WinStar believes that there are a number of measures, some suggested by the Commission and some suggested below, that can be implemented to utilize the numbering resource more efficiently, and, in the process, even address the concerns of most, if not all, interest groups. By the same token, WinStar believes that some of the concepts advanced in the *NPRM* would contribute little to extending the life of the NANP, and, moreover, would have a chilling effect on the promotion of competition in the telecommunications marketplace.

There is no question that a number of fundamental changes must be made to the NANP, which has experienced only the most minor changes since its inception in 1947. However, WinStar strongly disagrees with the Commission's basic premise that the bulk of the exhaust problem has been caused by the CLEC community. Certainly, the competitive community is responsible for a substantial proportion of the acceleration of exhaust, but WinStar will show in these comments that many of the inefficiencies inherent in the NANP existed long before the widespread introduction of competition in the local loop. Any plan, if it is to prevent the premature exhaust of the NANP and the imposition of enormous costs on consumers and the industry alike, must be developed as part of a joint effort. WinStar believes that all parties

(...continued)

Technology-Specific or Service-Specific Area Code, CC Docket No. 99-200, RM No. 9258, NSD File No. L-99-17, NSD File No. L-99-36 (rel. June 6, 1999) ("*NPRM*").

affected by the numbering crisis must work cooperatively, shoulder their respective shares of the burden, and adopt a plan which appropriately conserves the resource while fostering all the inherent benefits of competition.

In creating national standards for numbering resource optimization, the Commission's objectives in this proceeding also are to: (1) minimize any negative impact on consumers; (2) ensure sufficient access to numbering resources for all service providers that need them to enter into or compete in telecommunications markets; (3) delay (WinStar believes it is impossible to avoid) the exhaust of the NANP and the need to expand it; (4) impose the lowest societal cost possible, in a competitively neutral manner, while still achieving optimal benefits; (5) ensure that no class of carrier is unduly favored or disfavored by optimization efforts; and (6) minimize the incentive for carriers to accumulate and hold excessively large inventories of numbers.² WinStar believes that the proposals discussed below will expedite the achievement of these admirable goals.

II. OVERVIEW

In the *NPRM* the Commission identifies the following factors as contributing to the current strain on numbering resources and the exhaust of the NANP: (1) the allocation of numbers in 10,000 blocks; (2) multiple rate centers and the demand by most carriers to have at least one NXX code per rate center; (3) the increased demand for numbering resources by new entrants and new technologies; and (4) the absence of regulatory, industry, or economic control over requests for numbering resources.³ WinStar agrees that each of these factors has

² *NPRM*, ¶ 6.

³ *NPRM*, ¶ 15.

contributed in part to the current numbering resource shortage. However, WinStar believes that several significant factors have been omitted from the FCC's analysis, factors which could contribute substantially to the deferral of number exhaust and which must be considered in the interest of fundamental fairness to all industry participants and the development of a complete record in this proceeding. To the Commission's list WinStar would add and will discuss in these comments the following: (5) telephone number reservation policies; (6) lack of control on so-called tenant-resale operations; and (7) the lack of an adequate tool at the regulatory, industry, or end-user level for forecasting demand.

Jurisdiction Over Numbering Issues As the Commission correctly notes in the *NPRM*, Section 251(e)(1) grants the agency exclusive and plenary jurisdiction over numbering issues pertaining to the United States.⁴ The Commission has explained that Congress bestowed this authority on the agency in recognition that "ensuring fair and impartial access to numbering resources is a critical component of encouraging a robustly competitive telecommunications market."⁵ To facilitate the establishment of national rules and guidelines, Congress instructed the FCC to "create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis."⁶ Consistent with this directive, the Commission has entered into an agreement with Lockheed Martin Information Management Services to fulfill the neutral administration role called for in the 1996 Act, and this process appears to be operating reasonably well.

⁴ 47 U.S.C. § 251(e)(1); *NPRM*, ¶ 16.

⁵ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 19392, 19508 (1996).

⁶ 47 U.S.C. § 251(e)(1).

Along with its grant of exclusive jurisdiction over numbering issues to the FCC, Congress permitted the agency to delegate to state commissions or other entities all or any portion of its jurisdiction over numbering administration. In implementing Section 251(e), the Commission specified that, if it delegates telecommunications numbering administration functions to any state, the state must perform the functions in a manner consistent with the following general requirements, which also guide the agency's own numbering efforts. Numbering administration must: (1) facilitate entry into the telecommunications marketplace by making telecommunications numbering resources available on an efficient, timely basis to all telecommunications carriers; (2) not unduly favor or disfavor any particular industry segment or group of telecommunications consumers; and (3) not unduly favor one telecommunications technology over another.⁷

The Commission has, to some extent, exercised this discretionary power, and has delegated to the states its jurisdiction over certain numbering issues. The Commission now has sought comment on whether the agency should delegate any additional authority over numbering issues to the various state commissions -- including, for example, permitting the state commissions to engage in number administration enforcement activities,⁸ order NXX block reclamation,⁹ establish dispute resolution or appeal procedures regarding activation or reclamation of NXX blocks,¹⁰ implement 10-digit dialing or D-digit expansion,¹¹ implement

⁷ 47 C.F.R. § 52.9(a).

⁸ *NPRM*, ¶ 93.

⁹ *NPRM*, ¶ 100.

¹⁰ *NPRM*, ¶ 100.

¹¹ *NPRM*, ¶¶ 126, 129.

number pooling programs,¹² and establish expanded area code overlays.¹³ While the issues delegated to the states thus far -- primarily NPA (area code) relief -- might appear to belong most appropriately at the state level, WinStar believes, as will be discussed more fully below, that significant additional delegation to the states would be confusing, counterproductive, a significant impediment to competition, and ultimately would exacerbate rather than eliminate the numbering problem.

Area Code Relief The assignment of new area codes likely will continue to be the primary relief measure employed in geographic areas experiencing numbering resource shortages. While the assignment of full NXX codes undoubtedly has contributed significantly to the exhaust of the resource, particularly in areas which utilize comparatively large numbers of rate centers which encompass relatively small areas of geography, it would be imprudent for the Commission to mandate or even recommend a "one size fits all" approach to modify the current demand for telephone numbers. Any major change in numbering allocation methods must be approached with caution and with the input of all industry segments in order to understand both the benefits and drawbacks of each. WinStar would note that, consistent with its guidelines, the Commission must take care not to adopt any method that would severely hamper the ability of any service provider to do business.¹⁴

For several reasons, WinStar finds the NANPA study relied on by the Commission in the *NPRM* problematic as a basis for many of the agency's proposals regarding area code relief.¹⁵

¹² *NPRM*, ¶¶ 130-214.

¹³ *NPRM*, ¶ 255.

¹⁴ 47 C.F.R. § 52.9(a).

¹⁵ *NPRM*, ¶ 21.

First, since the document has not been released by the Commission, there has been no opportunity for the parties to this proceeding to review the study and evaluate its conclusions and recommendations. Furthermore, the Commission provides no statistical analysis in its comments, but, rather, merely quotes a range of 5.7 percent to 52.6 percent for utilization of the resource. The FCC offers no discussion of the basis for the utilization rates arrived at by the NANPA, or reference to any mean, median, or mode values for the range of data. It is entirely plausible, for instance, that the 5.7 percent rate is attributable to a service provider that had been in business for a relatively short time when the data was gathered, while the 52.6 percent figure possibly belongs to an incumbent service provider that has been operating for over 100 years as a sanctioned monopoly provider. Moreover, since incumbents have claimed utilization rates as high as 85 percent during proceedings related to thousands-block number pooling, WinStar believes that it is appropriate -- and, indeed, necessary -- that the Commission release this data for review if it is going to rely on it as the basis for any tentative conclusions in a proceeding as important to the future of local competition as this one.

In addition, the Commission expresses concerns about the costs inherent in NPA relief.¹⁶ Certainly, there are significant costs involved for every segment of the industry, including regulators, service providers, and consumers, when NPA relief is initiated. Nevertheless, there will be occasions, even under optimum utilization conditions -- however ultimately defined -- when NPA relief will be necessary. The consumer costs most frequently mentioned in connection with NPA relief include changes in stationery, business cards, and marketing for business consumers, and notification of friends and relatives in distant places for residential

¹⁶ *NPRM*, ¶ 22.

customers. These costs result almost exclusively from the deployment of geographic NPA splits, and in some cases they are substantial enough that they should not be dismissed by the regulatory bodies responsible for NPA relief.

On the other hand, virtually all of these consumer costs can be avoided by the deployment of overlay area codes for NPA relief. The only significant cost associated with overlay area code relief is the potential reprinting of stationery and marketing material to accommodate ten-digit numbers. Even so, this expenditure only has to be incurred once. Generally, the sole objections which consumers have raised relative to overlay NPAs concern the requirement for ten-digit dialing for all calls, and the possibility of confusion if numbers in both area codes are used in one location. WinStar believes that both of these arguments are entirely without merit. First, in major metropolitan areas, ten-digit dialing has become common, and in some cases is the norm even for many local calls. In any event, as the boundaries for geographic NPA splits become tighter and tighter, the opportunity for seven-digit dialing will all but disappear. Moreover, WinStar will show that the conclusions of the study most frequently relied on in defense of the continuation of seven-digit dialing are misrepresented, and that *in fact* all segments of the population are capable of adapting to ten-digit dialing. As for the assertion that confusion can result from two or more area codes in the same location, WinStar would postulate that the level of confusion is no greater than that which ensued when cable television providers provided dozens of channels where previously there had been only a handful.

WinStar concurs with the FCC's conclusion that state utility commissions face an enormous burden in the current environment when they are asked to plan for NPA relief.¹⁷

¹⁷ *NPRM*, ¶ 24.

WinStar believes, however, that a substantial portion of this burden could be relieved by the introduction of uniform, competitively neutral rules at the federal level. Such action over time would alleviate the criticisms that state commissions receive regarding NPA relief and would better define the role of the NANPA as part of the process.

Number Resource Optimization Efforts Like area code relief, certain number resource optimization efforts also are essential if the number crisis is to be resolved. Accordingly, WinStar, in its role representing the Association for Local Telecommunications Services (“ALTS”), has been an active participant in the Numbering Resource Optimization Working Group (“NRO”). WinStar also has taken an active part in the Local Number Portability Administration (“LNPA”) Working Group as well as the National Number Pooling Task Force. As such, WinStar has been an active proponent of certain optimization measures. However, WinStar would note that measures have been proposed by other participants in these groups that are of dubious value. Indeed, some of these measures would be counterproductive to efficient number utilization, and, in some cases, are flatly anti-competitive. Each of these measures will be discussed in detail later in these comments, and will be accompanied, where appropriate, with cost estimates and estimated implementation time frames.

Adoption of Rules Although many commenters probably would agree that excessive regulation serves no worthwhile purpose, either for the regulators or for those being regulated, there are situations where prudent regulation is both appropriate and even necessary. WinStar believes that to be the case here with regard to numbering administration. The current industry guidelines, while thoughtful, fair, and, for the most part, competitively neutral, have not been tremendously effective in ensuring the proper use of the numbering resource. WinStar believes

that this lack of effectiveness is due in significant part to the voluntary nature of the Guidelines. Unfortunately, in a newly competitive environment, there are likely to be participants who, because they are new to the business, or at least to the local segment of the business, are unaware of the guidelines or are less than committed to their observance than veteran local competitors. This lack of cooperation, whether intentional or inadvertent, can lead other providers relax their observance of the guidelines in an effort to maintain a position of competitive equality. The ultimate result is a virtually total collapse of the voluntary system.

In addition, at times even the NANPA appears to be confused by the Guidelines. A particularly telling and contemporary example is the current controversy over the concept of "Consensus" which must be reached before any issues are resolved. During some recent NPA relief proceedings, only one company has represented the incumbent carrier industry segment. At these proceedings, the incumbent company maintained that any measure that it did not approve could not move forward because, by association, the *entire industry segment that it represented* opposed it. As might be expected, some CLECs expressed the opinion that such a policy -- permitting one large company to control the process -- in fact violates both the letter and the spirit of the guideline which prohibits industry group dominance. In an effort to resolve this conflict, NANPA submitted the matter to the Industry Numbering Committee ("INC") for resolution. INC declined to render an opinion, stating that the issue was not within its purview. NANC similarly declined to rule, referring the matter to the Carrier Liaison Committee. Hence, this vital issue even now remains unresolved. If this process had been formalized as a Commission rule, it is likely that the rule would, first, have been less ambiguous, and, second, be subject to definitive implementation and enforcement.

WinStar offers this anecdote as an example of just one vital issue which has languished unresolved for an extended period of time because of the voluntary process. Many other issues and controversies suffer a similar fate. While WinStar believes that voluntary guidelines have a place during the investigation of certain innovative procedures -- such as number pooling -- WinStar submits that rules should be imposed for those matters of policy that directly affect consumption and exhaust of the numbering resource, all of which are discussed in these comments.

III. OTHER NUMBERING OPTIMIZATION SOLUTIONS

In conjunction with the proposed administrative measures discussed above, the Commission in the *NPRM* has proposed the implementation of various numbering optimization methods, including rate center consolidation, mandatory ten-digit dialing, and number pooling.¹⁸ WinStar strongly urges the Commission to adopt and implement nationwide mandatory ten-digit dialing, which is one of the most efficient and effective optimization measures proposed in the *NPRM*. WinStar also believes that both rate center consolidation and number pooling, if implemented cautiously, in a competitively neutral manner, and in appropriate locations -- as discussed below -- also may serve to accomplish the Commission's numbering optimization goals.

A. Rate Center Consolidation

In the several areas where it has been tried, rate center consolidation has been shown to be one effective way to forestall exhaust of the resource. Because rate center consolidation

¹⁸ *NPRM*, ¶¶ 106-108.

spreads the boundaries of a rate center over a wider, in some cases much wider, geographic area than traditional rate centers, new entrants can, and generally do, substantially reduce their initial "footprint" code requests. It appears likely that further implementation of rate center consolidation can significantly lengthen area code life and forestall exhaust of the NANP.

However, there are factors that impact the suitability of rate center consolidation in a given area. Rate center consolidation appears to work best in areas which have large local or "free" calling areas. In these areas, service provider billing algorithms are unaffected by consolidation because calls over large distances are billed either at a postalized per-call rate, or as part of a flat-rate calling package. For example, rate center consolidation in Minneapolis/St. Paul, which traditionally has permitted local calling throughout the entire metropolitan area, has proven very successful.

On the other hand, in areas where so called "message unit" or "zone" calling is in effect, rate center consolidation is far more problematic. In these areas, the consolidation of rate centers also involves the elimination of call-rating boundaries. In turn, substantial changes in local and intraLATA calling tariffs, and corresponding central office equipment and billing programs, are required to implement rate center consolidation in such areas. One probable effect of such a sweeping change would be an increase in monthly service rates, per-call charges, and other charges for end users to compensate for the loss of message unit or zone revenue. It is likely that some end users would object, perhaps strenuously, to such changes. Clearly, in these areas, costs and benefits will need to be considered very carefully before rate center consolidation can be implemented. While WinStar remains a strong proponent of rate center consolidation, it is clear that consolidation is not appropriate in all cases. Most notably, rate center consolidation seems

unsuitable where local calling areas are extremely compact. In these instances, other methods of optimization should be considered before deployment of rate center consolidation.

WinStar supports the Commission's suggestion that service providers be required to return NXX codes that no longer are needed.¹⁹ However, WinStar believes that it is vitally important to define the term "needed." The return of NXX codes in a rate center consolidation scenario would require service providers who were subject to code return to force ten-digit telephone number changes for those end users whose numbers populated the rate center. It is likely that the burden for ten-digit telephone number changes would fall disproportionately on customers of CLECs, since CLECs would be less likely to have high fill rates in NXX codes acquired before rate center consolidation. One solution to this imbalance might be to compel the return only of NXX codes with a low "contamination rate." Similar to thousands-block pooling, perhaps a contamination rate of 10 percent or less could serve as the trigger for return of NXX codes. While such a policy would mitigate much of the anticompetitive threat, it would simultaneously mitigate much of the perceived advantage of compelling the return of "unused" NXX codes. Therefore, WinStar concludes that further analysis is required before such a policy could be undertaken.

In the *NPRM* the Commission details a fundamental proposed change in the way that calls are rated.²⁰ While WinStar agrees that the technology exists through the use of Signaling System 7 ("SS7") to remove the link between rate centers and call rating, the proposal fails to note that a significant number of carriers, in particular rural ILECs, may not yet be SS7 capable. These

¹⁹ *NPRM*, ¶ 97.

²⁰ *NPRM*, ¶ 119.

carriers still would need to rely on rate centers in order to rate and route calls. Of greater concern with regard to this proposal is the effect on end users. End users have come to depend on the rate center concept, and the link of rate center to NXX code, as a means of judging the type and cost of calls that they are making. As long as time- and distance- sensitive pricing remain a part of call rating in the North American Numbering Plan, it will impose a hardship on certain portions of the end-user community to remove the link between rate center and NXX code.

Finally, the Commission seeks comment on the potential impact of rate center consolidation on 911 Emergency services.²¹ Of course, 911 always is a source of concern because of its critical nature. What is at issue here is the routing of 911 calls which experience a failure of Automatic Number Identification (“ANI”) to route and properly display a 911 call. In most E911 systems, calls which experience ANI failure are routed on a default basis to a defined public safety answering point (“PSAP”) based on the originating rate center of a call. It is possible in the current environment to route to the correct PSAP a large percentage of the time because the geography of most rate centers is comparatively limited. When a rate center is expanded, the accuracy rate of default routing to a PSAP necessarily falls. Since ANI failure occurs on average in about 3 percent of E911 calls, an assessment must be made as to the optimum method to route such calls and not delay necessary services. One solution might be a transition to S911 technology. This technology is based on Signaling System 7 rather than the older MF or Multi-Frequency technology and has a far lower rate of ANI failure (less than one percent). Such an implementation is expensive, and hence costs and benefits must be weighed. In the event that S911 is not deployed, WinStar submits that some fail-safe methodology needs

²¹ *NPRM*, ¶ 121.

to be deployed in order to ensure that calls experiencing ANI failure are handled accurately and expeditiously.

B. Mandatory Ten-Digit Dialing

The current seven-digit dialing pattern for local calls and ten-digit dialing for toll calls between NPAs has been in place since the introduction of All-Number Calling in 1962. As a result, society has grown accustomed to the standard, and many people, particularly end users, have strong feelings about its preservation. Despite this fact, the conservation of the current resource and the avoidance for as long as possible of NANP expansion, which would in any event end seven-digit dialing, dictates that the Commission seriously consider the imposition of mandatory ten-digit dialing.

The first phase of such an introduction logically is the elimination of protected codes. In certain parts of the country where there is a community of interest among communities in different area codes, the concept of protected codes was introduced to facilitate seven-digit dialing between these communities even though their telephone numbers used different area codes. This was accomplished by structuring the numbering system such that an NXX code in one NPA would not be duplicated in another. While demand for new numbers was low, protected codes provided end-user subscribers with a convenience by not requiring them to dial ten digits to reach other subscribers in the adjacent area codes.

However, while this process was convenient, from a number administration standpoint it was not efficient. In essence, in a situation where protected codes served an area with two NPAs, half of the NXX codes in each NPA were protected, or unavailable for assignment. In an area with three protected NPAs, two thirds of the codes in each NPA were unusable. It is

because of this waste of valuable resources that the NANP Administration Guidelines now strongly recommend that protected codes be eliminated before an NPA in which protected codes are used may be relieved.

Seven-digit dialing has served the country well for more than 30 years. However, like the four-, five-, and six-digit plans that preceded it, and are now nothing more than the subject of quaint and nostalgic conversation, WinStar believes that the time has come to embrace ten-digit dialing as a standard. In some jurisdictions which have adopted overlay NPA relief, this has already happened by regulatory mandate. In others, it is happening by default.

One particularly timely example of the latter is the Minneapolis/St. Paul Minnesota LATA. The Minnesota Public Service Commission has been particularly committed to the preservation of seven-digit dialing for as long as possible. Nonetheless, in the recent NPA relief proceeding there, which resulted in a state commission order to implement a three-way split, the Minnesota Commission's own staff report showed that nearly 60 percent of all IntraLATA calls in Minneapolis/St. Paul are placed using ten digits.²² The Minneapolis example is typical of other top 100 MSAs, even those which have not implemented overlay relief.

Also key to the debate over mandatory ten-digit dialing has been a contention -- most notably expressed in a study performed at the behest of AARP -- that children, the elderly, and the memory impaired (such as, for example, Alzheimer's patients or victims of closed-head injuries) have more difficulty remembering ten-digit numbers than seven-digit numbers.²³

²² Minnesota Public Utilities Commission, Docket No. P-999/M-97-506.

²³ *NPRM*, ¶ 125.

WinStar believes that both empirical evidence and the AARP study itself contradict the conclusion that mandatory ten-digit dialing would be harmful.

First, the tendency in recent years for the elderly, particularly those from northern portions of the country, to retire to milder climates is undeniable. Additionally, adult children frequently must relocate in order to pursue education or employment. In fact, the instance is now rare that an extended family remains intact within a local calling area. These relocations require the elderly who are affected to dial ten digits to reach friends and loved ones who no longer live within their local calling area. Despite this fact, there exists no data -- including the quoted study -- which indicates that dialing ten digits in this case has imposed an individual or social burden.

Second, the conclusions reached in the AARP study have, in WinStar's opinion, been misinterpreted. The study was conducted in three phases. In the first phase random unbroken strings of seven-digit and ten-digit numbers were presented on a computer screen to study participants. The participants then were asked to recall the numbers. In the second phase the numbers were presented in "chunks" of three, three, and four in the case of ten-digit numbers, and in "chunks" of three and four in the case of seven-digit numbers. In the third phase the so-called "chunking" method was used and the participants were told that they were being presented with phone numbers.

In the first exercise, children, the elderly, and the memory-impaired did statistically worse than the general population in remembering the numbers. However, in the second exercise where numbers were broken into "chunks" -- as they are in the case of telephone numbers -- the difference was barely significant, only one or two percentage points different, than the results of the general population. In the final exercise, where participants were told that