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July 29, 1999

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VIA UNITED PARCEL NEXT DAY AIR MAIL

Honorable Magalie Roman Salas, Secretary
Federal Communications Commission
445-12th Street, S.W.
Room TW-B204F
Washington, DC 20554

Re: In the Matter of Numbering Resource Optimization, et al.
CC Docket No. 99-200

Dear Secretary Salas:

Enclosed please find an original and five (5) copies of
Comments of the New Jersey Board of Public Utilities in the above-
referenced matter.

Please file-stamp one copy and return it to me in the
enclosed envelope.

Very truly yours,

JOHN J. FARMER, JR.
ATTORNEY GENERAL OF NEW JERSEY

By: Eugene P. Provost
Eugene P. Provost
Deputy Attorney General

EPP:ac

Encl:

- c: Herbert H. Tate, President
Carmen J. Armenti, Commissioner
Frederick F. Butler, Commissioner
Mark W. Musser, Secretary
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of
Numbering Resource Optimization

JUL 3 0 1999

CC Docket No. 99-200

Connecticut Department of Public Utility
Control Petition for Rulemaking to Amend
the Commission's Rule Prohibiting Technology-
Specific or Service-Specific Area Code Overlays

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RM No. 9258

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

California Public Utilities Commission and
the People of the State of California
Petition for Waiver to Implement a
Technology-Specific or Service-Specific Area Code

NSD File No. L-99-36

COMMENTS
OF THE
NEW JERSEY BOARD OF PUBLIC UTILITIES

The New Jersey Board of Public Utilities ("Board") herewith submits Comments in response to the above-captioned June 2, 1999 Notice of Proposed Rulemaking ("NPR").

A. ADMINISTRATIVE MEASURES

We agree with the Commission that one of the major drivers of number exhaust is the lack of discipline in the process by which numbering resources are administered and allocated. Furthermore, as identified in the NPR, the current guidelines for the allocation of numbering resources within the geographic area codes do not impose adequate constraints on a carrier's ability to obtain and stockpile numbers for which it has no immediate need.

Definitions of Categories of Number Usage

We support the Commission's tentative conclusion that a uniform set of definitions for the status of numbers should be established for purposes of implementing the proposals set forth in the NPR. Furthermore, we believe that uniform definitions will improve the ability to collect accurate data on number utilization and demand, which in turn will improve the ability to forecast number exhaust, and will assist in enforcing the Central Office ("CO" or "NXX") Code guidelines. We support the concept that uniform number status definitions should be incorporated into the CO Code guidelines and thousand block pooling guidelines. We believe that all of the proposed definitions are necessary and useful for the proper administration of numbering resources. We share the Commission's concern about how reserved numbers are categorized and whether they should be categorized as "unavailable

for assignment". We share the Commission's belief that an appropriately narrow definition must be adopted for both "reserved code" and "reserved number" to prevent potential abuse. We also support MCI WorldCom's proposal that a "reserved number" be defined as a number set aside by a service provider under the provisions of a legally enforceable written agreement at the request of a specific customer for future use. We also believe that a time limit of 60 days may be an appropriate period of time for a number to be held in reserved status. With a 60 days limit, we do not believe that there is any need to impose any fee on the carriers for reserving the numbers on behalf of their customers, even if they charge a fee from the customers for reserving the numbers.

Verification of Need of Numbers

The Board shares the Commission's concern about instances in which carriers have obtained initial codes for use in areas in which they are not licensed or certified. We believe that each applicant should be required to submit evidence of its license/certification with its applications for an initial code. We believe that an obligation should be placed on NANPA to check the status of an applicant's license or certification with the relevant state commission prior to issuing the requested initial code. We support the Commission's tentative conclusion that the applicant should be required to provide data that supports their need to obtain additional numbering resources, as a means of preventing the building and carrying of excessive inventories. We believe that NANPA should not allocate additional numbering resources, unless the applicant has made a satisfactory demonstration of need.

We believe that a percentage utilization threshold should be adopted nationwide. This threshold could be set initially to a lower percentage (for example 65 percent) and be gradually increased to a higher percentage (for example 85 percent) over a period of time (for example 5 years) in order to provide carriers time to adjust to the new requirements, and to improve their utilization performance over time. We support the Commission's proposed method of calculating a utilization level, that is, by dividing the quantity of "telephone numbers unavailable for assignment (the numerator) by the total quantity of telephone numbers in all NXXs assigned to the carrier within the appropriate geographic area (the denominator), and multiplying the result by 100. We believe that certain number status categories, including reserved numbers, numbers allocated to resellers, and numbers in dealer numbering pools, must be excluded from the "numerator" to discourage carriers from assigning NXX Codes or portions thereof to these categories, and then count these codes or numbers as being utilized, even when they are not being used to provide any type of service. We further believe that the utilization levels should be calculated either on an NPA-Wide or a rate center basis depending on the ability of the carrier to provide service without incurring extra costs within that geographic area. Furthermore, we recognize that newly acquired and activated NXX codes will have lower utilization rates than older, more "mature" NXXs. Therefore, we believe that the carriers should have the option of excluding from their utilization level calculation all NXXs obtained in the period immediately preceding the carrier's request for additional numbering resources. We propose that newly acquired NXXs should be defined as those assigned to the applicant by the NANPA during the 120 days prior to the new application.

Reporting/Record Keeping Requirements

We agree with the Commission that the current mechanism of data collection for

forecasting and utilization number exhaust by a Central Office Code Utilization Survey ("COCUS") mechanism has a number of shortcomings. Furthermore, we agree that these shortcomings render the current COCUS increasingly unreliable as a tool for managing current and future numbering resources.

Mandatory Data/Submission Requirement

We support the Commission's tentative conclusion that a more extensive, detailed and uniform reporting mechanism should be developed to improve numbering utilization and forecasting on a nationwide basis. Furthermore, we support the Commission's conclusion that the data from this reporting should be available to states that want to perform their own analysis to address area code issues such as jeopardy situations and area code relief.

Specificity of Data

We support the Commission's tentative conclusion that in order to provide information that is meaningful for utilization tracking and forecast purposes, telephone number status data should be reported at the rate center and the thousand-block level from LNP-capable and non-LNP capable carriers alike in areas that may move to thousand-block pooling.

Frequency Reporting

We support the Commission's tentative conclusion that carriers should report utilization and forecast data on a quarterly basis, rather than the current annual reporting cycle, because the pace of number exhaust is so great in many areas that annually collected information becomes outdated and useless as an analytical tool.

Confidentiality of Data

We agree with the North American Numbering Council's ("NANC's") recommendations that in states where a legally enforceable confidentiality agreement is in place, state commissions should be able to obtain utilization and forecast data.

Audit

We support the Commission's conclusion that the only comprehensive method for verifying the validity and accuracy of utilization data submitted by users of numbering resources is through the use of audits. We agree that audits can also be used to verify compliance with non-quantitative rules or guidelines, for example, to determine whether a carrier actually has subscribers for "assigned" numbers, or valid reservation requests. Furthermore, audit requirements may also, independently, serve as a deterrent to carrier noncompliance behavior.

Types of Audit

We support the Commission's tentative conclusion that the "For Cause" audits be conducted if there is reason to believe that the information a carrier has provided in connection with either a reporting requirement or an application for additional resources, is inaccurate or misleading.

We agree with the Commission that because "For Cause" audits are triggered only when there is some cause to believe that a carrier may be in noncompliance, they are highly cost-effective and necessary tools for monitoring number utilization and forecasting.

We also believe that regularly scheduled audits should be conducted for a representative cross-section of carriers that obtain numbering resources. Furthermore, we believe that conducting regularly scheduled audits every three years represents a reasonable compromise between effective auditing and cost containment.

Audit Responsibility

We believe that the Commission or its appointed neutral third party, such as NANPA, should perform regularly scheduled audits and "For Cause" audits. Furthermore, state public utility commissions should be provided the result of these audits. In addition, state utility commissions should also be authorized to conduct "For Cause" audits, if they believe that either the results of the audits are not satisfactory, or there is a reason to perform a "For Cause" audit based on the information provided by a carrier.

Auditing Information/Procedure

We agree with the Commission that the audit program should address all aspects of carrier compliance with numbering resource rules and industry numbering guidelines, focusing in particular on utilization data reporting and forecasting. It will be easier to develop certain auditing procedures, including specific triggers related to "For Cause" and regularly scheduled audits, after data reporting requirements have been finalized. As noted in the NPR, NANC and the industry numbering committee have been working to develop a comprehensive audit process and will provide a progress report regarding the work effort to the Common Carrier Bureau on or before the deadline for initial comments in this proceeding. We believe that this process will provide sufficient opportunity for state utilities commissions to examine and to provide feed back for the development of an auditing procedure.

Enforcement

The Board believes that there is a need both to strengthen the numbering allocation and assignment guidelines and to find an appropriate enforcement mechanism to ensure compliance on the part of all users of numbering resources. We support the Commission's tentative conclusion that the NANPA, the Commission and state commissions each have distinct roles to play in enforcing the provisions of the CO Code guidelines and other numbering utilization rules.

We agree that because the NANPA would be the first entity to detect a carrier's violation of a rule or guideline, such as failing an audit, the NANPA should be delegated additional enforcement authority. We support the Commission's tentative conclusion that the NANPA should be empowered to withhold CO Codes as a sanction for violation of the CO Code guidelines, especially where the violation involves failure or refusal to supply accurate and complete utilization or forecast data. For example, NANPA should be empowered to restrict future requests for resources when the violation is detected. When a carrier has no pending request for resources when the violation is detected, the

NANPA should be authorized to recommend to state regulatory authorities the revocation of a wireline carrier's certification or to the Commission the revocation of a wireless carrier's license.

Reclamation of NXX Blocks

We agree with the Commission that the reclamation of NXX blocks is a numbering optimization measure that may be one of the quickest and easiest measures to implement. Furthermore, we support the Commission's tentative conclusion that the provisions of reclamation of NXX blocks should be modified to encourage more efficient use of NXX codes.

We support the modification of the current reclamation process by the imposition upon the NANPA of a requirement that it initiate NXX code reclamation within 60 days of expiration of the assignee's application deadline. We agree with the Commission that this modification will limit the length of time an NXX code has been left idle and encourage better recycling of the unused NXX codes. Furthermore, we believe that the amount of time during which a carrier may reserve an NXX code be reduced from 18 months to 3 months, and, correspondingly, the time period of potential extension of that reservation be reduced from 6 months to 30 days.

We support the Commission's tentative conclusion that the Commission delegate additional authority to state public utilities commissions to order NXX block reclamation in accordance with the CO code guidelines.

Cost Elements and Cost Recovery

We support the Commission's position that the costs of administrative solutions as proposed should be allocated and recovered through the existing NANPA fund formula.

B. OTHER NUMBERING OPTIMIZATION SOLUTIONS

Non-LNP Based Solutions

The NPR seeks comments on number utilization methods which are independent of the availability of Local Number Portability (LNP), more specifically, on the following measures: (a) rate center consolidation, (b) mandatory 10-digit dialing, and (c) D-digit expansion.

As noted in the NPR, the first two methods can be implemented by states independently without effecting other states and the NANPA's system. However, according to the NANC Report, the third option, D-digit expansion, requires that the solution be implemented simultaneously by all participants in the NANPA. Furthermore, as indicated in the NANC Report, this modification is expected to be a multi-year process and should be implemented as the final phase of the measure associated with ten-digit dialing.

We believe that the conservation measures such as rate center consolidation and mandatory 10-digit dialing should remain up to the individual states to implement and that the D-digit expansion measure should be delayed for a second phase of number optimization. State authority over

10-digit dialing will also allow state commissions to act in the best interests of a particular subscriber base in authorizing the use of protected codes. This flexibility will enable individual states to adopt number optimization measures depending on their individual circumstances.

LNP-Based Solutions: Number Pooling

Thousands-block pooling involves the allocation of blocks of sequential telephone numbers within the same NXX code to different service providers, and possibly different switches, within the same rate center. To implement thousands-block pooling, the industry has proposed employing the Location Routing Number ("LRN") infrastructure which supports LNP.

We support the Commission's tentative conclusion that the LNP-based method of thousands-block number pooling is an important numbering resource optimization strategy that could make more efficient use of NXX codes already allocated and those awaiting allocation.

Individual telephone number pooling ("ITN") and unassigned number porting ("UNP") involves the allocation of individual telephone numbers within the same NXX to different service providers, and possibly different switches, within same rate center. Both ITN and UNP pooling methods would also employ systems used for LNP. With ITN pooling, allocation would be accomplished via a pooling administrator and may require four to six years from the date of a regulatory order to implement. With UNP, however, allocation of individual telephone numbers generally would be accomplished between providers by using the established LNP porting mechanism and would not involve a pooling administrator.

Because of the implementation time frames, we support the Commission's tentative conclusion not to pursue ITN pooling at this time. Furthermore, we also support the Commission's conclusion not to prohibit the practice of UNP where two or more carriers reach a mutual agreement to transfer unassigned numbers among themselves.

Pooling Roll-Out

We recommend that in areas which are or become LNP-capable, carriers should also be required to participate in thousands-block pooling even if these areas are not in the largest 100 MSAs. This is because it appears that the greatest benefits from pooling are achieved when all or most participating carriers are LNP capable, and thus, are able to participate in pooling.

Making the Decision to Implement Pooling in a Given Area

We believe that state utilities commissions should be delegated the authority to order thousands-block pooling in their respective jurisdictions pursuant to their determination that the costs of ordering pooling are outweighed by benefits.

Non-LNP-Capable Carriers

We believe that states are in a better position to determine the exemption from thousands-block pooling for those carriers that are not LNP-capable at the time of implementation of thousands-

block number pooling. Furthermore, we believe that states are ideally situated to determine which geographic areas provide benefits greater than the cost associated with the thousands-block pooling.

Cost Recovery

We support the Commission's tentative conclusion that an exclusively federal recovery mechanism for number pooling related costs will enable the Commission to satisfy most directly its competitively neutral mandate, and will minimize the administrative and enforcement difficulties that might arise were jurisdictions over numbering administration divided. Furthermore, like the Commission, we support this approach because it obviates the need for state allocation of shared costs of the number pooling administration, a task that would be complicated by the use of multistate databases for thousands-block pooling administration.

Furthermore, The Board supports the Commission's tentative conclusion that incumbent LEC's numbering administration costs, including costs incurred as a result of number pooling, should not be subject to jurisdictional separations and that the incumbent LECs should be allowed to recover their costs under the federal cost recovery mechanism to be established by the Commission.

C. AREA CODE RELIEF

Service-Specific and Technology-Specific Overlays

We believe that state commissions should be delegated authority to establish service-specific and technology-specific overlays within their jurisdictions. We believe that state regulatory authorities are well equipped to understand the unique needs of their jurisdictions, and to consider such factors such as the level of competition, the growth rate within specific services and technologies and their corresponding effect on area code exhaust frequencies.

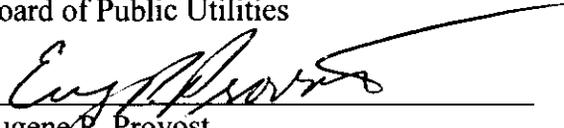
WHEREFORE, the New Jersey Board of Public Utilities respectfully recommends that the Commission adopt the positions set forth herein.

Respectfully submitted,

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Dated: July 29, 1999

By:


Eugene P. Provost
Deputy Attorney General