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

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In the Matter of	)	
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Petition by the United States Department of Transportation for Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation System (ITS) Services Nationwide	)	CC Docket No. 92-105 NSD-L-99-24

To: The Commission

JOINT REPLY COMMENTS OF THE INTELLIGENT TRANSPORTATION SOCIETY OF AMERICA, THE AMERICAN PUBLIC TRANSIT ASSOCIATION, AND THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS

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SUMMARY

The Intelligent Transportation Society of America ("ITS America"), the American Public Transit Association ("APTA"), and the American Association of State Highway and Transportation Officials ("AASHTO") (collectively "Joint Commenters") restate in these reply comments their strong support for the U.S. Department of Transportation's ("U.S. DOT's") Petition for the assignment of an N11 number to access traffic, transit and traveler information.

The comments submitted to the Commission express virtually unanimous support for an N11 assignment. Moreover, the record evidences a compelling need for this assignment that is best satisfied by the use of an N11 number. The record also shows that significant public resources are already being invested to provide the public with access to traveler information.

Local, incumbent usage of any N11 designation should not delay or otherwise affect the Commission's decision to grant the U.S. DOT's Petition. Such usage should not result in a *de facto* national assignment. Furthermore, this assignment would benefit rather than impede private sector efforts to provide traveler information services.

Commission precedent and the record in this proceeding provide a sufficient basis for the Commission to move immediately to a report and order making the assignment without further review of the Commission's N11 code policies. Additional Commission consideration of implementation and technical issues is unnecessary, duplicative and wasteful of scarce Commission resources. As was the case with the 311 assignment, state and local governments, along with their industry partners, are best able to resolve these questions. For the foregoing reasons, the U.S. DOT's Petition should be granted.

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The Intelligent Transportation Society of America ("ITS America"), the American Public Transit Association ("APTA"), and the American Association of State Highway and Transportation Officials ("AASHTO") (collectively the "Joint Commenters"),[1] pursuant to Section 1.401 of the Commission's Rules,[2] hereby respectfully submit their reply comments in response to the Public Notice[3] issued by the Commission concerning the above-referenced Petition filed by the United States Department of Transportation

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1 The views expressed in the Joint Reply Comments of ITS America, APTA, and AASHTO do not necessarily reflect the views of each of the individual members of these organizations.

2 47 C.F.R. § 1.401.

3 Public Notice, *Petition by the United States Department of Transportation for Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation System (ITS) Services Nationwide*, DA 99-761 (rel. April 20, 1999).

("U.S. DOT").[4] As also fully reflected in their initial comments, the Joint Commenters fully support the U.S. DOT's Petition for the assignment of an abbreviated dialing code ("N11")[5] to access Intelligent Transportation Systems ("ITS") offering traffic, transit and traveler information.

A review of the initial comments before the Commission provides significant evidence of a compelling public need for traffic, transit and traveler information that can best be met by assignment of an N11 number. ITS America, APTA and AASHTO believe that the record in this proceeding is sufficient for the Commission to move immediately to adoption of a report and order assigning an N11 number for traveler information and, thereby, urge the Commission to grant U.S. DOT's Petition without institution of a notice of proposed rulemaking.

I. INTRODUCTION

As stated in their initial comments, the Joint Commenters believe that granting an N11 assignment would be consistent with Commission precedent and is justified because it is in the public interest. Such an assignment is in accord with the Commission's continuing effort to promote the use of communications technology for public safety and transportation efficiency, and to facilitate the development and implementation of the

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4 *See* Petition by the United States Department of Transportation for Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation System (ITS) Services Nationwide (filed March 8, 1999) ("U.S. DOT Petition").

5 "Among abbreviated dialing arrangements" are telephone numbers of less than the standard 7 or 10 digits. Among abbreviated dialing arrangements, "N11 codes" are 3-digit telephone numbers of which the first digit may be any digit other than 0 or 1, and the last two digits are both 1. *In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, First Report and Order and Further Notice of Proposed Rulemaking, 12 FCC Rcd 5572, 5574 (1997) ("*N11 First Report and Order*").

nation's Intelligent Transportation Systems. The national assignment of an N11 number also serves the public interest as members of the traveling public would know that they could dial this number from virtually any exchange, and from any street or highway in the country in order to obtain travel-related information.

The benefits of traffic, transit, and traveler information can best be realized, however, only by the assignment of a nationwide N11 number. At present, whether commuting within a metropolitan area or traveling across interstate regions, the public must learn an increasing proliferation of different telephone numbers to gain access to valuable information. The Joint Commenters concur with other commenters in this proceeding that a single, nationwide N11 number is essential to promoting greater use of traveler information systems and achieving the benefits associated with use of such information.

An N11 number is the most effective means of disseminating traveler information as it will reduce confusion and frustration over the plethora of differing numbers in different cities and states. The benefits of improving the timeliness and quality of traveler information generally available are compelling, and include improved roadway safety, enhanced mobility, decreased congestion, and improved environmental conditions. These are all important goals of the ITS program as established by Congress in the Intermodal Surface Transportation Efficiency Act of 1991 ("ISTEA")[6] and

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6 Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. No. 102-240, 105 Stat. 1916 (1991) ("*ISTEA*").

confirmed in the Transportation Equity Act for the 21st Century ("TEA21"),[7] which was signed into law in 1998.

If the Commission assigns an N11 number for traffic, transit, and traveler information, there can be little doubt that states and local governments will implement it, and that the easy to remember number will be used by the public to access valuable information. N11's virtual ubiquity and eventual nationwide status as the phone number to use for quick and easy access to travel-related information supports granting an N11 assignment. Traffic, transit, and traveler information should be available in all areas (metropolitan and rural) and to all potential end users – including those of varying economic levels and persons with physical disabilities – whether by wireline or wireless phones. The availability of travel-related information should truly be universal. For the foregoing reasons, and those presented in the reply comments that follow, ITS America, APTA, and AASHTO urge the Commission to assign immediately an N11 number for traveler information.

II. THE COMMENTS SHOW VIRTUALLY UNANIMOUS SUPPORT FOR AN N11 ASSIGNMENT.

Comments submitted by the numerous parties in this docket express virtually unanimous support for assigning an N11 number for traffic, transit and traveler information services. Indeed, supporting comments represent the broad spectrum of organizations, entities and individuals with an interest in transportation: state and local governments, transit and other operating agencies, private industry and users.

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[7] Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, 112 Stat. 107 (1998) ("*TEA21*").

A. The Comments Submitted in This Proceeding Reflect Virtual Unanimity in Expressing Support for an N11 Assignment for Traveler Information.

The Joint Commenters count nearly 100 organizations or individuals have filed comments in support of a national traveler information telephone number, the vast majority of whom also support the requested N11 assignment as the best means to achieve this goal. Nearly half of the states, including three governors, have submitted comments in support of the Petition.[8] Furthermore, more than 25 transit agencies, operating in both metropolitan and rural areas, favor the assignment.[9] Support has come from over 20 metropolitan planning organizations, along with their national

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8 *See, e.g.*, Comments of Virginia DOT, Washington State DOT, Mississippi DOT, Kentucky Transportation Cabinet, California DOT, Indiana DOT, Texas DOT, Georgia DOT, Alabama DOT, Kansas DOT, North Carolina DOT, Utah DOT, Ohio DOT, Minnesota DOT, New York, DOT, Massachusetts Highway Department, Michigan DOT, Illinois DOT, Rhode Island DOT, and Maryland DOT. *See also* Comments from the Governors of Montana, Nebraska and New Hampshire.

9 *See, e.g.*, Comments of Red Rose Transit Authority (Lancaster, PA), LEXTRA (Lexington, KY), San Mateo County Transit District (CA), SunLine Transit Agency (Palm Springs, CA), Central Ohio Transit Authority, Dallas Area Rapid Transit, Triangle Transit Authority (NC), Valley Transportation Authority (Santa Clara (CA), Maryland Mass Transit Administration, Altamont Commuter Express (Stockton, CA), Port Authority Trans-Hudson Corp. (NY/NJ), Transit Authority of River City (Louisville, KY), Greater Cleveland Regional Transit Authority, Monterey-Salinas Transit (CA), City of Kalamazoo Public Transportation (MI), Tompkins Consolidated Area Transit (Ithaca, NY), Foothill Transit (CA), Escambia County Area Transit (FL), VIA Metropolitan Transit (San Antonio, TX), Santa Cruz Metropolitan Transit District (CA), Lehigh and Northampton Transportation Authority (Allentown, PA), Bi-State Development Agency (St. Louis), Metro Regional Transit Authority (Akron, OH), Utah Transit Authority, Capital District Transportation Authority (Albany, NY), San Francisco Municipal Railway, Southern California Regional Rail Authority, and Potomac and Rappahannock Transportation Commission (Woodbridge, VA).

associations.[10] Cities such as San Jose, California and Charlotte, North Carolina also submitted comments in support of an N11 assignment for traveler information.[11] Other commenters include the I-95 Corridor Coalition, an umbrella organization of 28 public transportation agencies along Interstate-95 from Virginia to Maine, which noted how the N11 assignment would help achieve the Coalition's goal of providing more timely, more complete and more affordable information to travelers.[12]

As an example of state efforts in implementing traveler information services strongly desired by the public, the Governor of Montana, Marc Racicot, noted that his state's Department of Transportation has provided traveler information, particularly in the winter months, to over 800,000 callers through a toll-free number over the past three

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10 *See, e.g.*, Comments of National Association of Regional Councils, Association of Metropolitan Planning Organizations, Metropolitan Transportation Commission (San Francisco/Oakland), San Diego Association of Governments, Northeastern Regional Indiana Regional Coordinating Council, Des Moines Area Metropolitan Planning Organization, Ohio-Kentucky-Indiana Regional Council of Governments, Clark County-Springfield Transportation Coordinating Committee (OH), Sacramento Area Council of Governments, Chittendon County Metropolitan Planning Organization (VT), Capitol Region Council of Governments (CT), Indianapolis Metropolitan Planning Organization, Evansville Urban Transportation Study (IN), Economic Council of Northeastern Pennsylvania, Toledo Metropolitan Area Council of Governments, Baltimore Metropolitan Council, Metroplan Orlando (FL), Tri-County Metropolitan Transportation District of Oregon, East Central Florida Regional Planning Council, and Southern California Association of Governments.

Metropolitan Planning Organizations, or "MPOs," are especially important for transportation. Under federal law, MPOs are charged with developing the five, ten and 20-year plans for future transportation construction and improvements all across the United States. Federal transportation dollars cannot be spent on a specific project unless that project is part of an MPO-developed and approved transportation plan.

11 *See* City of San Jose, California Comments; City of Charlotte, North Carolina Comments.

12 *See* I-95 Corridor Coalition Comments.

years.[13] In fact, Montana residents responded in a survey that traveler information is the second most important function of the state department of transportation.[14] Montana has already begun exploring how to standardize traveler information between itself and its neighboring states.[15] According to the Governor, an N11 number would help in this effort.[16]

The Commission should also note the submissions of the Metropolitan Transportation Commission (San Francisco/Oakland) and the Kentucky Transportation Cabinet. Both of these parties voice strong support for a national N11 assignment for traveler information, particularly in light of the frustrations experienced by these agencies that result from the inability to obtain a uniform and easy to remember number. The Metropolitan Transportation Commission ("MTC") has been using the 817-1717 access number for its TravInfo traveler information service.[17] However, because of the proliferation of new area codes in the San Francisco Bay Area, MTC has been unable to use the same number in all nine counties it serves.[18] Consequently, MTC has been

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13 *See* State of Montana Comments.

14 *Id.*

15 *Id.*

16 *Id.*

17 Metropolitan Transportation Commission Comments at 4-6.

18 *Id.* at 7-9.

thwarted in its efforts to provide and market a single number for its TravInfo services, resulting in public frustration and lower usage.[19]

The Kentucky Transportation Cabinet's ("KTC") experience is similarly illustrative of the problems faced today in providing traveler information to the public. KTC operates the ARTEMIS traveler information service in Northern Kentucky and Cincinnati. There, too, KTC has been stymied by the lack of a common number, but here across state lines. In 1995, the Kentucky Public Service Commission assigned 311 to KTC.[20] Ohio residents, however, could only use 333-3333 while Kentucky residents could use 311.[21] Once 211 became available for both Northern Kentucky and Cincinnati, KTC saw a 91% increase in call volumes because of the abbreviated calling code.[22] Although these increased call volumes occurred only in a limited geographic area, KTC's experience is indicative of the potential increases in usage if an N11 number became available nationwide.

Support for the assignment has also come from both wireline and wireless carriers. MCI Worldcom and Sprint PCS, for example, submitted comments in support

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19 *Id.* at 9-10 ("Between educating the public on area code splits and explaining how the system actually operates, the essential product, traveler information, has been given short-shrift in our marketing campaign.").

20 Kentucky Transportation Cabinet Comments at 1. KTC had to subsequently vacate that code in 1997 because of the FCC's order granting 311 for non-emergency police access. *Id.* KTC later received permission to use 211 in Northern Kentucky. *Id.*

21 *Id.* at 2.

22 *Id.*

of a national assignment of an N11 number for traveler information.[23] Two other carriers, BellSouth Corporation and AT&T Corporation, while expressing other concerns addressed below, do not oppose the requested assignment.[24] Other private sector supporters representing the ITS industry – *e.g.*, SmartRoute Systems and two ITS America affiliated state chapters in Florida and Massachusetts -- submitted comments in favor of the assignment.[25]

SmartRoute Systems, in particular, offers a unique perspective. It is a private company partnering with state and local public transportation agencies to provide real-time traffic and transit information to the public. The company is currently offering this service in 11 major U.S. cities: Boston, Chicago, Cincinnati, Los Angeles, Milwaukee, New York, Philadelphia, San Diego, San Francisco, Twin Cities (Minneapolis and St. Paul), and Washington, DC.[26] SmartRoute Systems stated in its comments: "It is our opinion that an N11 assignment by the FCC for [traveler information services] will serve the public good by eliminating confusion in the areas where Traveler Information Services are available by telephone, and could serve to promote the use of and expansion of these services."[27]

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23 *See* MCI WorldCom, Inc. Comments at 1 ("MCI WorldCom supports the use of abbreviated dialing arrangements to serve important public service goals, such as the function proposed by DOT."); Sprint PCS Comments at 1 ("Sprint PCS supports the assignment of an N11 code such as 511 for use in the delivery of travel-related information to the public.").

24 *See* BellSouth Corporation Comments at 1; AT&T Corporation Comments.

25 *See* SmartRoute Systems Comments; ITS Florida Comments; and ITS Massachusetts Comments.

26 *See* SmartRoute Systems website at "www.smartraveler.com."

27 SmartRoute Systems Comments at 1.

User groups also support the U.S. DOT's Petition. The American Automobile Association ("AAA"), representing 42 million drivers, recognizes the possible benefits of an N11 assignment. AAA stated in its comments:

> AAA believes that N11 would complement current efforts at effective highway traffic engineering, which is also an essential component to the safe and efficient movement of persons and goods upon public streets and highways. N11 is an aspect of the implementation of modern technological advances and uniformity in our highway system for improved traffic flow, driver communication and route guidance. N11 will facilitate a more informed driver. AAA believes an informed driver is a more effective decision maker . . . . [28]

Support also comes from Landstar, a trucking firm that operates over 8,700 vehicles traveling over 750 million miles annually in the United States.[29] Additionally, and perhaps most interesting, an industry group representing Silicon Valley companies filed comments in support of the assignment. This non-profit organization, called the Silicon Valley Manufacturing Group, includes as its members Hewlett-Packard, Intel, Nortel Networks, Honeywell, TRW, Bank of America, and Citibank, to name a few.[30] This group stated in its comments: "One of [the members'] top priorities is improving the transportation infrastructure in the area, as it contributes significantly to the economic success of Silicon Valley. A national number for traveler information access would be useful in reducing traffic congestion and accidents."[31] These companies, none of which provide transportation services, understand the value of information, how it can improve

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28 American Automobile Association Comments at 2.

29 *See* Landstar RMCS Comments.

30 *See* Silicon Valley Manufacturing Group Comments.

31 *Id.* at 1.

the quality and safety of the nation's transportation systems and help increase these and other companies' economic productivity.

B. The Record Reflects that There Exists a Compelling Need for an N11 Assignment for Traveler Information.

The supporting comments document the many benefits that would result if a national assignment of an N11 number were to be made available for traveler information services. First, there is consensus that an N11 number would improve mobility by enabling travelers to make better decisions about what mode of transportation to use, such as transit.[32] Second, an N11 number would reduce congestion and improve traveler safety.[33] Third, the assignment would improve economic productivity.[34] And, fourth,

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32 *See, e.g.,* Metropolitan Transportation Commission Comments at 6 ("Nearly half of existing TravInfo callers (47.7%) change their travel behavior (e.g., change in departure time, route, mode of travel, etc.) as compared to 15.2% of radio traffic listeners who change their behavior."); Kentucky Transportation Cabinet at Appendix 5, pages 20-23 (discussing results of a June 1999 survey of ARTEMIS users who changed route taken, departure time, destination, mode of travel and/or delayed their trip after calling for traveler information).

33 *See, e.g.,* American Automobile Association Comments at 2 ("The ever increasing demands of the highway system – more drivers, more vehicles, more stress – underscores the need for real time travel information."); Lehigh and Northampton Transportation Authority Comments ("Not only would this system work towards greatly improving travel safety, we feel sure that traffic congestion would be mitigated as well."); Landstar RMCS Comments at 2 ("First and foremost, Landstar strongly believes that the DOT's [Petition], if granted by the FCC, would result in making the nation's highways safer and less congested for Landstar's operators and the motoring public.").

34 *See, e.g.,* California Department of Transportation Comments at 1 ("In 1998, California freeways were experiencing 836,000 vehicles hours of congestion per day, up 70 percent from just eight years ago. Being stuck in freeway traffic takes nearly 105 million gallons of fuel per day, adding 418 tons of vehicle emissions to our air. Productive time lost to freeway traffic congestion exceeds $7.8 million per day."). Based in part on these conditions, California DOT supports the requested assignment. *Id.*

this assignment would promote the goals set forth by the U.S. Congress for national interoperability and integration of ITS.

C. The Record Shows that Significant Public Resources are Already Being Invested to Provide the Public With Access to Traveler Information.

The record now before the Commission provides clear evidence that the transportation community is already investing significant resources to provide traveler, traffic and transit information services via the telephone. In their initial comments, the Joint Commenters included a survey of 299 different telephone numbers to access traveler information services.[35] The survey documents that these numbers appear in every state and are sponsored by many different types of organizations: state departments of transportation, transit agencies, airports, metropolitan planning organizations, local governments, turnpike and bridge authorities, commuter railroads and ferry services. Private companies, including wireless carriers, are also providing these services.

These organizations are also using a variety of funds to support these services. The U.S. Congress has recognized the importance of these services for reducing congestion, improving mobility and enhancing the environment. Consequently, federal transportation dollars from several program categories amounting to billions of dollars annually are available to support these information services. Further, state and local transportation agencies are using these and their own funds to support these services. This investment shows no sign of abating and, indeed, would increase if an N11 number is made available.

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[35] *See* ITS America, APTA and AASHTO Joint Comments at Appendix 7.

III. CONSIDERATION OF OTHER POTENTIAL USERS OF N11 SHOULD NOT DELAY OR AFFECT ASSIGNMENT FOR TRAFFIC, TRANSIT AND TRAVELER INFORMATION.

The overwhelming majority of comments do not question the compelling public need for traveler information nor raise significant objections to an assignment of a national number for these information services. However, a few commenters ask the Commission not to assign a specific three-digit number because of incumbent usage in a few, local areas.[36] The Joint Commenters believe that the reasons provided by these parties do not provide a sufficient basis to deter the Commission from moving expeditiously to assign the best N11 designation for traffic, transit and traveler information services.

A. Nationwide Assignment Takes Precedence Over Local, Incumbent Users.

Incumbent commercial or other local users of existing N11 numbers should be well aware that use of an N11 number is subject to the Commission reassigning the N11 number for national use and that non-compliant uses can be discontinued with short notice. The Commission addressed this issue in the *N11 First Report and Order* when it decided to make a nationwide assignment of 311 and 711 for non-emergency police access and Telecommunications Relay Services ("TRS"), respectively. The Commission noted that Bellcore, in its role as the North American Numbering Plan ("NANP") administrator, had issued specific guidelines addressing the use of N11 codes.[37] These guidelines permit local use of an N11 number if such assignments and use can be

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36 *See, e.g.,* Comments of MCI Worldcom, 211 Collaborative, United Way of Metropolitan Atlanta, BellSouth , and Cox Enterprises.

37 *N11 First Report and Order*, 12 FCC Rcd at 5597.

discontinued on short notice.[38] In states where N11 codes have been used locally, state public utility commissions have directed the local exchange carriers to assign and administer these codes.[39] Furthermore, the Commission specifically informed BellSouth that while it was not prohibited from assigning N11 codes in a reasonable and non-discriminatory manner for access, for example, to "local pay per call type information services," "any such number assignments would be subject to the outcome of any rules [the Commission] adopts in this rulemaking proceeding, and thus parties accept such number assignments at their risk."[40] Consequently, any parties currently using N11 numbers are on full notice that they may be required to discontinue use of such N11 number.[41]

In the *N11 First Report and Order*, the Commission did acknowledge that 311 was being used for local purposes in several areas of the country. The Commission, in its concern over abrupt disruption of incumbent uses of 311, determined that such use would be permitted to continue until the local government in that area was prepared to activate a non-emergency 311 service.[42] The Commission stated:

> The record indicates that 311 is being used in several jurisdictions. Our decision to allow other uses of the 311 code to continue for a reasonable period will ensure

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38 *Id.*

39 *Id.*

40 *See In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements,* CC Docket 92-105, Notice of Proposed Rulemaking, 7 FCC Rcd 3004 (1992) (*"N11 NPRM"*).

41 In its comments, the Kentucky Transportation Cabinet described its efforts to move from 311 to 211 in response to the Commission's assignment of 311 for non-emergency police access. Kentucky Transportation Cabinet Comments at 1.

42 *N11 First Report and Order*, 12 FCC Rcd at 5597.

> that there is no unreasonably abrupt disruption of those uses. We expect that, in ensuring relinquishment of non-compliant uses of 311 as required . . . , providers of telecommunications services also ensure that this occurs with the least disruption possible to the user's business.[43]

To avoid assigning an N11 number on a national basis because of localized use amounts to *de facto* assignment to that local use without any showing before the Commission of a compelling public need. This is not an efficient use of N11 numbers, which are a scarce public resource. Instead, in the 311 proceeding the Commission recognized the special needs of local users of an N11 number, but, quite properly, subordinated those needs to the national interest. If the Commission now decides to assign an N11 number for traveler information services, precedent – and the national interest – require that all incumbent users discontinue their use of that number once an interest is identified to use it for traveler information services.[44] Consideration of these local interests should neither delay nor affect this assignment.

In their initial comments, a group of 13 non-profit organizations named the "211 Collaborative" stated that they did not oppose the U.S. DOT Petition, as long as 211 is

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43 *Id.* at 5598.

44 In the 311 proceeding, the Commission has set forth a process and schedule for local, incumbent users to vacate an abbreviated code because of a national assignment. The Commission wrote:

> When a provider of telecommunications services receives a request from an entity (for example a local police chief or local fire chief) to use 311 for access to non-emergency police and other government services in a particular jurisdiction, it must ensure that, within six months of the request: (1) entities that were assigned 311 at the local level prior to the effective date of [the *N11 First Report and Order*] relinquish non-compliant uses; and (2) it take any steps necessary (for example reprogramming switch software) to complete 311 calls from its subscribers to a request 311 entity in its services area.

Id. at 5595. A similar procedure could also be used here for this N11 assignment.

not assigned as the abbreviated number for traveler information services, apparently in anticipation that the Commission will grant their petition for an N11 assignment.[45] In May, 1998, the 211 Collaborative filed a petition with the Commission seeking assignment of 211 nationwide for community information and referral services.[46] The 211 Collaborative's members provide information and referral services at no cost to the public regarding local community organizations and resources in non-emergency situations.[47] Currently, two of the Collaborative's members, United Way of Metropolitan Atlanta and United Way of Connecticut, are using 211 for public access to their referral services. According to the 211 Collaborative's initial comments, the Georgia Public Service Commission assigned 211 in May, 1997 for use by United Way of Metropolitan Atlanta for the 13 counties in and around that city.[48] In Connecticut, United Way of Connecticut began using 211 in January of this year because of support from the governor and legislature of that state.[49]

The Joint Commenters take no position on the 211 Collaborative's petition for an N11 assignment for community information and referral services, but take this

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45 *See* 211 Collaborative Comments.

46 *See* Public Notice, "Request by the Alliance of Information and Referral Systems, United Way of America, United Way 211 (Atlanta, GA), United Way of Connecticut, Florida Alliance of Information and Referral Services, Inc., and Texas I&R Network for Assignment of 211 Dialing Code," NSD-L-98-80, DA 98-1571 (rel. August 6, 1998). This petition is still pending. We note that one of the 211 Collaborative's members, United Way of Metropolitan Atlanta, also filed its own comments in response to the U.S. DOT's Petition.

47 *See* 211 Collaborative Comments at 2-3.

48 *Id.* at 6.

49 *Id.* at 6-7.

opportunity to contend that the record currently before the Commission shows a far more compelling public need for an N11 assignment for traveler related information. There should be no assumption that local, incumbent use of any abbreviated code qualifies one for priority assignment at the national level. If the Commission makes only one N11 number available, that number should be designated for use for traveler information services. If, however, the Commission decides to make two N11 numbers available, the Commission should weigh any potential dislocation costs attributable to both numbers.[50] Regardless, the Commission should neither delay nor otherwise let the U.S. DOT's Petition be affected because of the 211 Collaborative's current operations. Local, incumbent usage should not result in a *de facto* national assignment.

Both Cox Enterprises and BellSouth neither support nor oppose the U.S. DOT's Petition,[51] but ask the Commission not to assign 511 for traveler information services and, more generally, request that the Commission clarify how it will treat current, local users of N11 numbers when considering a nationwide N11 designation.[52] It appears that both parties are motivated by self interest in their request that 511 not be assigned for national use. Cox Enterprises is a newspaper publishing company that is currently using

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50 The Joint Commenters note that the 211 Collaborative in its comments did not state that it would not accept 511 if the Commission decided to grant both requests for an N11 assignment. The Joint Commenters further observe that the U.S. DOT's Petition does not request a specific number, but the Commission should note that the Kentucky Transportation Cabinet has already moved from 311 to 211 as a result of the national assignment of 311 for non-emergency police calls. *See* Kentucky Transportation Cabinet Comments at 1.

51 *Id.* at 1; Cox Enterprises Comments at 1.

52 BellSouth Comments at 4-6; Cox Enterprises Comments at 3-4. In its initial comments, MCI Worldcom also questioned the Commission's policies toward incumbent users of N11 abbreviated codes. *See* MCI Worldcom Comments at 3-5.

511 to provide local information services in partnership with BellSouth in Atlanta.[53] BellSouth, the regional bell operating company in five southern states, has made 511 available in several localities in Alabama, Florida and Georgia for a variety of local information services, both public and commercial, including those provided in partnership with Cox Enterprises.[54] The arguments put forward by Cox Enterprises and BellSouth are even less persuasive than the 211 Collaborative's. First, neither Cox nor BellSouth have petitioned the Commission for a national N11 assignment. Second, this local 511 usage is primarily for private, commercial purposes. Third, BellSouth made both 211 and 511 available for local use in its operating area with full knowledge that such usage would be subject to Commission rulemakings that might assign such abbreviated codes for national purposes. Again, the Commission should not permit a *de facto* national assignment because of local, incumbent usage.

B. Private Service Providers Can Still Operate.

GTE stated that it opposes the petition, contending that the petition fails: (1) to show that nationwide access to traveler information services cannot be achieved through another means; and (2) to meet the urgency standard imposed by the Commission.[55] The Joint Commenters disagree with GTE's views in this regard. First, an N11 is the best and most effective means for the public to access nationwide traveler information.[56] An N11 service would be available to the entire traveling public. Furthermore, the N11

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53 Cox Enterprises Comments at 1-2.

54 BellSouth Comments at 2-3.

55 GTE Comments at 2-3.

56 *See* ITS America, APTA and AASHTO Joint Comments at 30-35.

number would be easier to recall, universally understood, and, therefore, more likely to increase usage than a seven and ten-digit number or other dialing arrangements. Other alternatives such as three-digit numbers like "222," "XX#," "*XX," a 555 prefix, a seven-digit number, an 800 or 900 number are neither practical nor effective options for interoperable access to ITS user services.[57] These alternative dialing formats (as also explained by other commenters) present barriers to implementation and interoperability because of cost, public perception, technical feasibility, and code availability.[58]

Second, the Joint Commenters have documented a compelling public need – or "urgency" -- for traffic, transit and traveler information.[59] At Appendix 7 of the Joint Commenters' initial comments, a survey was attached that lists 299 existing traveler information telephone numbers, nearly 150 for transit and at least one in all 50 states. Several of these numbers are serving more than 250,000 callers monthly.[60] Moreover, the benefits to be gained from a nationwide N11 number cannot be overstated. Information on real-time traffic and road conditions, scheduled road construction, transit and ferry schedules are only a few of the specific benefits.[61] More general benefits

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57 Another commenter, Communications Venture Services, Inc., has proposed that a 555 number be assigned, but does not challenge the benefits of using an N11 number. *See* Communications Venture Services Comments. For the reasons stated above and their initial comments, the Joint Commenters maintain that an N11 code remains the best option. *See* ITS America, APTA and AASHTO Joint Comments at 32-35.

58 *See, e.g.,* Metropolitan Transportation Commission's Comments at Appendices A-1, A-2 (providing analysis of problems with 555-prefix and toll free options for nationwide traveler information services).

59 *See* ITS America, APTA and AASHTO Joint Comments at 19-29.

60 *Id.* at 20-21.

61 *Id.* at 21-25.

include improved safety, enhanced mobility, decreased congestion and a better environment.[62] These benefits would be available to all travelers in all locations through both wireline and wireless access.[63] The record clearly evidences a compelling public need and potential benefits from a national N11 assignment for traveler information services.

Implicit in GTE's opposition, but explicitly stated by Sprint PCS in its comments, is the concern that granting an N11 assignment will effectively impede the development of private sector provisions of traveler information services.[64] GTE and other carriers are apparently "exploring and/or developing plans" to provide similar information services, and these carriers are concerned about the possible anti-competitive effects of such an assignment.[65] The Joint Commenters applaud the development of value-added, premium services and believe, that instead, an N11 assignment would help to create a stronger market for all service providers.[66]

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62 *See* ITS America, APTA and AASHTO Joint Comments at 19-26.

63 Communications Venture Services, Inc., also bases its opposition on the conclusion that an N11 number for traveler information services would be accessible only through cellular technology. Communications Venture Services Comments at 1. This statement is incorrect because such information would also be available by using landline phones.

64 GTE Comments at 3-4; Sprint PCS Comments at 2.

65 GTE Comments at 3-4.

66 Indeed, members of the transportation community have also recognized this market. General Motors, among several car manufacturers, has already equipped thousands of vehicles with the "OnStar" system, which provides a cellular phone link to a national communications center. Operators at this center can provide directions, access to local Yellow Pages, and summon a tow truck or emergency service providers in case of a breakdown or accident. An N11 number would aid in providing these and other services to OnStar subscribers.

However, Sprint PCS characterizes the U.S. DOT Petition as a request for an N11 number for the "exclusive" use of state and local governments, and thereafter argues that "such a restriction would stifle consumer choice, retard the rapid development of effective [traveler information] systems, and in the process, undermine the Congressional goal of promoting widespread implementation of such systems."[67] These arguments are misplaced. First, the Commission has previously determined that N11 codes are a scarce public resource and, thus, not private property. The Commission wrote:

> The Commission has stated that carriers do not "own" codes or numbers but rather administer their distribution for the efficient operation of the public switched telephone network. The Commission, also on several occasions, has further characterized telephone numbers as a national public resource. Based on our review of the record, we tentatively conclude that N11 codes should not be transferred or sold through private transactions at this time.[68]

Consequently, the Commission should base its decision to make this assignment on public interest considerations. The Joint Commenters believe that the public interest in assigning an N11 number for traveler information, because of the compelling public need, far outweighs the narrow, commercial interests asserted by some carriers.

Second, the U.S. DOT Petition does not request that the assignment be made exclusively to state and local governments. State and local governments are charged with the construction, maintenance and operation of the nation's highways, roads and transit systems with the goal of ensuring the welfare of the traveling public. Therefore, these government officials must maintain a degree of responsibility for related services, such as an N11 number for traveler information. State and local governments must protect – and, indeed, enhance – the public welfare while providing equal access to all members of the

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67 Sprint PCS Comments at 2-3. *See* U.S. DOT Petition at 1-2.

68 *N11 First Report and Order,* 12 FCC Rcd at 5612.

public regardless of economic status. However, this is not an exclusive franchise. The Joint Commenters believe that the Petition still allows for a private sector role in delivering these traveler information services. However, maintaining a public role with this N11 assignment will guarantee a basic level of service accessible to all.

An N11 assignment in this case would help create a market for these information services that, in turn, will foster competition. Sprint PCS actually answers its own question. It suggests that carriers, and other potential providers of traveler information services, be given the flexibility to choose the source(s) of this information:

> If carriers have the flexibility to choose the source of their traveler information, such that this information becomes a new source of competition in the market, each carrier will then have the incentive to offer customers the best package of traveler information available. This competition among carriers, in turn, creates competition among assemblers of traveling information, as each assembler is incented (sic) to introduce new and more useful services and features so as to obtain additional business and visibility.[69]

Contrary to GTE's and Sprint PCS's view, the U.S. DOT request is not for a mandatory assignment that is exclusive to state and local governments. Public officials would be free to choose how best to use the N11 assignment to distribute traveler information to meet the conditions and needs in any given area. Any private organization, including carriers, may offer state and local governments a plan to accomplish this goal. This is already happening. Eleven cities have contracted with SmartRoute Systems to act as the central point of data collection and distribution. Carriers would also retain the flexibility to offer value-added traveler information services without contracting first with a government agency. A carrier, for example, could still offer its own service to its mobile

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[69] Sprint PCS Comments at 4-5.

wireless customers based on traveler information that the carrier itself collects.[70] The carrier could install a "switch" on its network that would allow its subscribers to access the premium service, but also permit access to the more basic N11 service. If approved, the U.S. DOT's Petition would enhance the flexibility of both the public and private sectors to determine how best to provide these traveler information services. An N11 assignment will help create the nationwide customer awareness needed to develop this market.[71]

IV. THE COMMISSION SHOULD MOVE EXPEDITIOUSLY IN ASSIGNING AN N11 NUMBER FOR TRAFFIC, TRANSIT AND TRAVELER INFORMATION SERVICES.

Several commenters have requested that the Commission undertake a comprehensive review of all abbreviated dialing arrangements before deciding whether to assign the N11 number for traveler information services. According to these commenters, the Commission should first solicit comments and resolve technical and implementation issues. ITS America, APTA and AASHTO suggest that further consideration of these issues is unnecessary, duplicative and wasteful of scarce Commission resources. Instead, based on clear precedent, the Commission should move directly to a report and order granting the U.S. DOT's Petition.

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70 Why a private company would want to create its own infrastructure to collect traffic, transit and other traveler information makes no economic sense, especially given that federal, state and local governments are already spending millions of public dollars to do so. *See* ITS America, APTA and AASHTO Joint Comments at 38-39. However, it may add value in the manner it presents the information to the caller. For example, Enhanced 911 implementation on wireless networks could allow carriers to provide localized traffic information for a specific vehicle and caller.

71 *See* ITS America, APTA, and AASHTO Joint Comments at 29-35.

A. Commenters Ask For Comprehensive Review of N11 Codes.

The record includes the comments of several organizations asking for a comprehensive review of the Commission's overall N11 policy in light of several technical and implementation issues. Comments received from AT&T, BellSouth, Sprint PCS, MCI Worldcom, and Southern California Association of Governments all question how this N11 assignment would work, citing issues of cost recovery; translation and routing procedures; cost to the consumer; multiple and overlapping jurisdictions; staffing, maintenance and operational procedures and costs; other abbreviated codes for commercial information services type of information to be accessed; sources of funding; and incumbent users.[72]

All of these issues are not to be discounted, but the Commission's decision to make the N11 assignment in this case should not await their resolution. As discussed below, Commission precedent prescribes how these issues are to be solved by the state and local government officials responsible for deciding how best to implement the N11 number to satisfy local needs.

B. The Record in this Proceeding is Sufficient for the Commission to Conclude That an N11 Assignment for Traveler Information is Justified Without Institution of a Rulemaking Proceeding.

The record in this proceeding provides the Commission with a sufficient basis to issue immediately an order assigning an N11 number for traveler information. Further, there exists Commission precedent for such an action. In the *N11 First Report and Order*, the Commission appropriately assigned 311 and 711 for national use without resorting to lengthy rulemaking proceedings, recognizing that implementation and other

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72 *See* Comments of AT&T; BellSouth; Sprint PCS, MCI Worldcom; Southern California Association of Governments.

issues can be resolved separately from deciding whether granting a request for national use of an N11 number is appropriate.[73]

In the *N11 First Report and Order,* the Commission recognized the tremendous benefits to be gained by nationwide implementation of N11 numbers:

> We find that a nationwide, uniform system of numbering is essential to the efficient delivery of interstate and international telecommunications. Despite the fact that most individual N11 calls are likely to be intrastate, N11 numbers, like 911, have significance that go beyond state boundaries. At times, an end user who is travelling can dial the same N11 code used at home to access the same service accessed at home. In order to achieve the maximum public benefit from the allocation of particular codes to certain services, those codes must be allocated in a consistent manner on a nationwide basis.[74]

Thus, the Commission set aside 311 as a code for non-emergency police and other government services. The Order does not obligate any entity to adopt 311; rather it ensures that any local entity that wishes to use 311 has the option to do so.[75] Further, wherever 311 is currently in use for other purposes, that use would be permitted to continue until the local government in that area was prepared to activate a non-emergency 311 service.

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[73] For 711, the Commission did decide to address implementation questions at the national level, but, nonetheless, did not hold up the assignment of this abbreviated code for national TRS services. *See N11 First Report and Order*, 12 FCC Rcd at 5606. It also appears that the Commission maintained jurisdiction over 711 implementation matters because of its statutory obligations under the Americans with Disabilities Act and with Section 255 of the Telecommunications Act of 1996. No such statutory requirements or "national" implementation issues are presented by the U.S. DOT's Petition.

[74] *Id.* at 5607.

[75] It should be made clear that the 311 assignment is not a mandate to state and local governments. As the Commission stated, "If a local government concludes that an alternative number is working well for non-emergency calling, it may decide not to request 311 implementation. Our assignment leaves the choice to local governments." *Id.* at 5597. Similarly, the U.S. DOT's Petition does not request for an assignment that state and local governments must implement.

The Commission acknowledged that state and local governments, and their public utilities commissions, are best able to address how 311 is to be implemented, including technical issues, costs and funding. The Commission wrote:

> While we acknowledge that many commenters raise concerns about using 311 for non-emergency police calls (citing the possibility of user confusion with 911, technical issues related to implementation, costs, funding and the potential effects on the 911 system), we find, nonetheless, that the benefits of a national N11 assignment for non-emergency calling in those communities choosing to use 311 will outweigh the implementation concerns, which are most appropriately addressed by local governments.[76]

Those entities, particularly public ones providing transportation services to the public, operate at the state and local levels. Consequently, it is state and local public officials, who oversee the provision of such services and, ultimately, are responsible to the public for them. The Commission further stated: "Local governments are best suited to determine the need for relief of their 911 systems for non-emergency calling, and therefore, whether to avail themselves of the ability, made easier by this national assignment, to request 311 implementation in their respective jurisdictions."[77]

Since the assignment of 311 for national use in 1997, 311 implementation is occurring.[78] Baltimore actually began its 311 operations in 1996 before the Commission assignment.[79] Dallas and San Jose, California followed in the fall of 1997. Chicago has a program as well. In February of this year, Vice President Gore announced $3.85 million in new Department of Justice grants to eight local areas to either expand or

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76 *Id.* at 5595.

77 *Id.* at 5596-97.

78 ITS America conducted a comprehensive study of 311 implementation efforts.

79 The State of Maryland has announced plans to make 311 access to police statewide.

establish a 311 program: Baltimore; Birmingham, Alabama; Houston; Los Angeles; Martha's Vineyard; Miami; Rochester; New York and South Pasadena, California. The District of Columbia government also plans to begin its 311 service by the end of this month.

Although federal funds are being used to support 311 programs, it is still true that local public officials – state and local governments, police, fire, emergency medical and others – are making the decisions, first, to use the 311 code and, second, how the program is implemented and operated. For example, state, local and private sector funds, along with in-kind contributions, have all been used for 311 implementation. In Baltimore, the city contributed $400,000 annually for 311 operations and maintenance. AT&T contributed $1.3 million in capital costs. In Dallas, the city paid $400,000 in capital costs from the general city budget. These and the other 311 programs would not exist except for state and local government leadership and funding.

This general model is even more valid for implementation of an N11 number for traveler information services. Federal dollars are already being made available. Yet, again, it is state and local governments and other public officials charged with managing transportation who have decided that traveler information is a needed service in their communities. Then, these officials have found the funding from multiple sources and designed the programs to meet their needs. An N11 assignment now would only serve to make it easier for state and local governments to provide these services.

Therefore, the Commission's review of the U.S. DOT's Petition should be no different than it was for the 311 assignment. There exists a clear and convincing record before the Commission that documents the compelling public need for a national N11

assignment. An N11 code is the best alternative for providing these traveler information services. A subsequent rulemaking proceeding would not likely result in any additional evidence determinative of whether or not to grant the assignment. The Commission, therefore, should move directly to a report and order to avoid unnecessarily wasting its time and resources in a further administrative proceeding.

C. Industry is Committed to Resolving Implementation Issues at the State and Local Levels.

The ITS industry and others are committed to the successful implementation of an N11 number for traveler information services. As noted in the Joint Commenters' initial comments, there are literally hundreds of traveler information telephone numbers currently in existence offering a myriad of services to the traveling public. Many organizations, such as the Kentucky Transportation Cabinet and the Metropolitan Transportation Commission (San Francisco/Oakland), have confronted and solved the implementation obstacles discussed above. Investments in these services are being made today and will continue to be made in the future, particularly if a nationwide N11 number becomes available. By refraining from mandating a single approach, the Commission will leave the door open for states and local governments, along with their industry partners, to develop their own models to use the N11 assignment. No national standards or prescribed architecture will also promote competition. Thus, the Commission need not be involved with resolving implementation issues. National transportation organizations, such as ITS America, APTA and AASHTO are also positioned to provide guidance so that an N11 assignment is successfully utilized across the country. Accordingly, the Commission should move expeditiously to a report and order assigning an N11 for traffic, transit and traveler information.

V. CONCLUSION

The case for an assignment of an N11 number for traveler information services has been clearly and conclusively made. Further study of implementation issues prior to Commission action on the U.S. DOT's petition merely delays needlessly the use of this national resource to meet a compelling public need. Such a delay will impair achieving the goals set forth by the U.S. Congress for national ITS interoperability and integration, run counter to Executive Branch intent and deprive the public of the benefits from an improved traveler information services network, including enhanced safety and mobility. Consistent with 311 precedent, the Commission should release immediately a report and order assigning the N11 number.

Respectfully submitted,

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