

**LEVINE, BLASZAK, BLOCK & BOOTHBY, LLP**

1300 CONNECTICUT AVENUE, NW  
SUITE 500

WASHINGTON, D.C. 20036

(202) 223-4980

FAX (202) 223-0833

August 30, 1999

VIA ELECTRONIC COMMENT FILING SYSTEM

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
TW-B204F  
Washington, DC 20554

Re: Numbering Resource Optimization,  
CC Docket No. 99-200

Dear Ms Salas:

Pursuant to the June 2, 1999, Notice of Proposed Rulemaking ("Notice") in the above-referenced proceeding enclosed please find the Reply Comments of the Ad Hoc Telecommunications Users Committee ("Ad Hoc") addressing those issues raised in the Notice. Ad Hoc's Comments are being transmitted to the Federal Communications Commission via the Federal Communications Commissions' Electronic Comment Filing System.

If you have any questions or concerns, please do not hesitate to contact me at (202) 857-2550.

Respectfully submitted,



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Betsy M. Eisen  
Legal Assistant

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

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

**Reply Comments of the Ad Hoc  
Telecommunications Users Committee**

Lee L. Selwyn  
Helen Golding  
Scott C. Lundquist  
Economics and Technology, Inc.  
One Washington Mall  
Boston, MA 02108-2617  
617.227.0900

Colleen Boothby  
Levine, Blaszak, Block and Boothby, LLP  
2001 L Street, NW  
Suite 900  
Washington, DC 20036  
202.857.2550

Economic Consultants

Counsel for  
The Ad Hoc Telecommunications  
Users Committee

August 30, 1999

## SUMMARY

The comments of other parties in this proceeding largely confirm the factual assertions and policy conclusions advanced in Ad Hoc's initial comments. Most importantly, the record in this proceeding to date underscores the urgency with which aggressive number conservation measures need to be pursued in order to avoid radical modifications to the North American Numbering Plan ("NANP") that would be extremely disruptive and costly to the telecommunications industry, to consumers – including both individual consumers and large business, governmental, and institutional users – and to the US economy overall.

The industry input and empirical evidence now assembled in the record demonstrate that the FCC can and must implement rules and policies that will permit those conservation measures to be implemented as soon as possible. Accordingly, the Commission should take the following actions to conserve numbering resources and prevent injury to consumers:

- *Grant the state public utility commissions ("PUCs") authority to order wireline carriers to implement thousands-block number pooling.*
- *Permit states to implement thousands-block pooling on a separate track from rate center consolidation.*
- *Grant the state PUCs the authority to require wireline carriers to implement unassigned number portability ("UNP") as an interim conservation measure.*
- *Reject fees as an allocation mechanism for numbering resources because of their anti-competitive impact and ineffectiveness.*
- *Reject mandatory ten-digit dialing as a conservation measure, and eliminate mandatory ten-digit dialing as a prerequisite to establishment of all-services NPA overlays.*

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**Reply Comments of the  
Ad Hoc Telecommunications Users Committee**

The Ad Hoc Telecommunications Users Committee submits the following reply comments in response to the Commission's June 2, 1999 Notice of Proposed Rulemaking ("*Notice*" or "*NPRM*") in the above captioned proceeding.<sup>1</sup>

The members of the Ad Hoc Telecommunications User's Committee ("Ad Hoc" or

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<sup>1</sup> *Numbering Resource Optimization*, CC Docket 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*, 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 Utility 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, Notice of Proposed Rulemaking, FCC 99-122 (rel. Jun. 22, 1999). ("*Notice*" or "*NPRM*").

"Committee") are high-volume users of telecommunications services and facilities who wish to ensure the continued availability of competitively-provided, high-quality, telecommunications services and facilities at reasonable prices.

The comments of other parties in this proceeding largely confirm the factual assertions and policy conclusions advanced in Ad Hoc's initial comments. Most importantly, the record in this proceeding to date underscores the urgency with which aggressive number conservation measures need to be pursued in order to avoid radical modifications to the North American Numbering Plan ("NANP") that would be extremely disruptive and costly to the telecommunications industry, to consumers – including both individual consumers and large business, governmental, and institutional users – and to the US economy overall.

The industry input and empirical evidence now assembled in the record demonstrate that the FCC can and must implement rules and policies that will permit those conservation measures to be implemented as soon as possible. Accordingly, the Commission should take the following actions to conserve numbering resources and prevent injury to consumers:

- *Grant the state public utility commissions ("PUCs") authority to order wireline carriers to implement thousands-block number pooling.* The Commission should encourage, but not mandate, state PUCs to pursue thousands-block pooling as the highest priority number conservation measure. State PUCs must be allowed to respond flexibly to numbering issues and to use thousands-block number pooling where suitable.
- *Permit states to implement thousands-block pooling on a separate track from rate center consolidation.*
- *Grant the state PUCs the authority to require wireline carriers to implement unassigned number portability ("UNP").* The Commission

should encourage, but not mandate, state PUCs to explore use of UNP as an interim conservation measure.

- *Reject fees as an allocation mechanism for numbering resources because of their anti-competitive impact.* Existing number assignment measures coupled with the large *embedded* base of numbers being held by incumbent wireline and wireless service providers would impose severe competitive disparity for new entrants, and do little to encourage conservation.
- *Reject mandatory ten-digit dialing as a conservation measure, and eliminate mandatory ten-digit dialing as a prerequisite to establishment of all-services NPA overlays.* The inconvenience and costs that 10-digit dialing imposes on the public far outweigh the minimal number resource expansion and competitive parity benefits of 10-digit dialing.

These recommendations are described in more detail below.

## DISCUSSION

### **A. The FCC should grant state PUCs the Authority to Order Thousands-block Pooling**

In its initial comments, Ad Hoc argued that the time has come for the Commission to allow direct action by state PUCs to address the increasing consumption of numbering resources, particularly through the use of thousands-block pooling. Some commenters disagree with this approach.

For example, BellSouth argues that states should not be given authority to implement number pooling until national industry standards have been formulated and states have thoroughly examined rate center consolidation.<sup>2</sup> While BellSouth asserts that there is sufficient time to develop a standardized national approach,<sup>3</sup> the evidence indicates that this is, in fact, not the case. The

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<sup>2</sup> BellSouth comments at 7. (All citations to comments below refer to comments filed in response to the *Notice*.)

<sup>3</sup> *Id.* at 10-12.

numbering situation is too acute to wait for the many months that would be required to reach agreement on national standards.

BellSouth's own comments demonstrate this point. In its attack on the Lockheed Martin NANP exhaust study,<sup>4</sup> for example, BellSouth illustrates why action is critical at this time by asserting that the projected NANP exhaust date predicted by Lockheed Martin's study varies widely when the study's underlying assumptions are changed.<sup>5</sup> In an environment where many key factors have not yet been determined, this very volatility demonstrates the need to take decisive action and to do so now, not at some uncertain date in the future when an "industry consensus" on pooling finally coalesces. Thus, while BellSouth can lengthen the estimate of NANP exhaust by varying the *NANPA Exhaust Study's* assumptions, the estimate of NANP exhaust can just as easily be shortened by accelerating the implementation date for pooling and other conservation measures.

In addition, BellSouth's analysis does not appear to recognize that the *NANPA Exhaust Study* employed two complementary methods to evaluate number exhaust: the "tops-down" NPA Demand Model and the "bottoms-up" CO Code Model.<sup>6</sup> These two models converge in their results with predicted exhaust

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<sup>4</sup> *North American Numbering Plan Exhaust Study*, submitted by the North American Numbering Plan Administration ("NANPA") Lockheed Martin CIS, dated April 22, 1999 ("*NANPA Exhaust Study*").

<sup>5</sup> *Id.* at 11-12.

<sup>6</sup> *NANPA Exhaust Study* at 1-4.

dates of 2007 and 2008 respectively<sup>7</sup>, thereby increasing the likely validity of the result.

In contrast to BellSouth, other ILECs agree that the risk of premature NANP exhaust must be taken seriously and addressed quickly with concrete conservation steps. For example, Ameritech concludes that the costs of reformatting the NANP can not be quantified at this point but will be “staggering,” and urges the Commission and industry to adopt conservation measures now to extend the life of the NANP.<sup>8</sup> US West opines that the NANP will exhaust before the year 2008.<sup>9</sup> Bell Atlantic also asserts that thousands-block pooling must go forward as soon as possible.<sup>10</sup> The evidence at this stage thus indicates that consumers and the industry can ill afford to further defer state-level number conservation efforts while detailed national guidelines are formulated.

Ad Hoc’s support for Commission action that empowers states to address rapid number consumption with number pooling is echoed generally by the states themselves. At least eleven states generally support the notion that “state commissions should be given the authority to determine when and where to implement pooling within their states. States agree with the concept that states should be able to opt in or out of thousand block pooling [*sic*] and that if they choose to give up the right to make that decision, another entity, such as NANPA or the FCC can make the decision.”<sup>11</sup> Despite the time- and resource-intensive

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<sup>7</sup> *Id.* at 2-1 and 3-27.

<sup>8</sup> Comments of Ameritech at 6.

<sup>9</sup> Comments of US West Communications, Inc. at 11.

<sup>10</sup> Comments of Bell Atlantic at 23.

<sup>11</sup> Outline of State Response to Numbering NPRM (“*State Position Outline*”) at 12, filed,

nature of evaluating and implementing number conservation practices, state authorities recognize that they are the appropriate entities to weigh the costs and benefits of using the various conservation options in a particular state, and are willing to take on this burden. The state regulatory authorities typically have the knowledge of local circumstances required to implement number pooling and other conservation measures in the most pro-consumer, pro-competitive, cost-effective, and efficient manner.

Some carriers have expressed concern that a patchwork of rules and regulations would be created by the states if the FCC gave the states authority to require number pooling. This, some carriers assert, would lead to increases in administrative burdens, costs, and inefficiencies.<sup>12</sup> For example, US West claims that numbering expertise “is not a mainstay of governmental state regulatory authorities,” and accuses states of taking a “parochial approach” to numbering issues.<sup>13</sup> However, US West fails to recognize that the circumstances affecting number consumption (*e.g.*, degree of local competitive entry, historical rating area practices, and relative mix of wireline and CMRS services, among others) can vary greatly from state to state, so that every state faces different costs and benefits as a result of each possible conservation measure. States must be given some latitude to select, from a range of pro-consumer, pro-competitive

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*e.g.*, with Massachusetts Department of Telecommunications and Energy’s (“Massachusetts DTE’s”) Initial Comments on the FCC’s *NPRM*; with Initial Comments of the California Public Utility Commission (“California PUC”), Attachment at 12. The eleven participating states were California, Connecticut, Maine, Massachusetts, New Hampshire, New York, North Carolina, Ohio, Texas, Washington, and Wisconsin.

<sup>12</sup> This view was expressed, for example, in Comments of AT&T Corp. at 39-40; Comments of NEXTLINK Communications, Inc. at 10-11 (“NEXTLINK”); and US West comments at 16-17.

<sup>13</sup> US West comments at 17.

conservation measures, those that best respond to their particular circumstances and balance the interests of all stakeholders within their borders.

Carriers have also failed to take account of the fact that the staff from various state commissions have already been coordinating their efforts, as evidenced by the *State Position Outline* submitted in this proceeding.<sup>14</sup> Historically, the result of such a coordinating process is that the states who face these issues first will develop a general “blueprint” for action on which other states will rely. Thus, as has been the case for other policy matters, certain states will take leadership roles, while others will benefit from those states’ deliberations and conclusions and adopt the approach taken by states facing similar technological and marketplace characteristics. Thus, as a practical matter, carriers will contend with only a few variations on a single theme in order to meet the needs of consumers and accommodate competition.

At a minimum, the FCC should not block state initiatives, while at the same time deferring action on the very same issues from which states have been foreclosed. If, despite the objections of Ad Hoc and the various state commissions that have submitted comments in this proceeding, the FCC does not allow states to take action on thousands-block pooling, then at a minimum the FCC must abandon the current industry “consensus” process in which consumers have no voice. The FCC must open up the decision-making process to include input from consumers, who must, after all, ultimately pay the price for any missteps in the management of numbering resources.

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<sup>14</sup> Massachusetts DTE comments at Attachment A.

**B. Thousands-block pooling should not be contingent upon implementation of rate center consolidation or other number conservation measures.**

There is little support in the comments for the FCC proposal to make thousands-block pooling implementation contingent upon prior implementation of other measures, particularly that of rate center consolidation.<sup>15</sup> Ameritech contends that thousands-block pooling and rate center consolidation are competing, not complementary, measures because the value added by pooling is small wherever rate center consolidation has been implemented.<sup>16</sup> Whether or not this is the case is largely immaterial at this point, and indeed there is little empirical support for Ameritech's contention. In fact, the opposite is actually the case: Unless rate center consolidation is implemented concurrently with the creation of an entirely new area code, it may offer very little conservation benefit *unless carriers are required to return unused blocks and individual numbers to a pool for reassignment to other service providers*. With ILEC utilization rates running in the 35% range and CLEC utilization rates in the 5% range, pooling is the engine that will permit otherwise "stranded" numbers in full NXX codes that have been assigned to individual carriers to be made available to others when and where needed, permitting carriers to take maximum advantage of the

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<sup>15</sup> Those comments that opposed any link between measures, (particularly pooling being contingent upon the implementation of rate center consolidation), include, but are not limited to, the following parties: Comments of MediaOne Group, Inc. at 27; Comments of the United States Telephone Association ("USTA") at ii; Comments of AT&T at 35; Comments of the Local Telecommunications Services ("ALTS") at 22; and *State Position Outline* at 11.

<sup>16</sup> Ameritech comments at 40. Other commenters also argue that rate center consolidation should be implemented, or at least thoroughly investigated, before pooling should go forward. BellSouth comments at 23; Comments of Sprint Corporation at iii.

elimination of geographic constraints which rate center consolidation makes possible.

But even if Ameritech were correct – and it clearly is not – the fact remains that rate center consolidation will take far more time to implement than pooling and that the NANP is threatened with the prospect of exhaust in the near future. Moreover, as the Massachusetts DTE and the California PUC have noted in their comments, investigations into rate center consolidation could be contentious and, in California, implementation is estimated to take at least two and one-half years.<sup>17</sup> The USTA, ALTS and the States agree that making rate center consolidation a prerequisite to thousands-block pooling is simply not an option at this point.<sup>18</sup> Therefore, relief via pooling should not be forced to await rate center consolidation. Ad Hoc agrees with the California PUC that “pooling is a much higher priority than RCC.”<sup>19</sup>

**C. States should implement unassigned number portability ("UNP") on an interim basis if needed.**

In its comments, BellSouth argues that UNP is “not an optimization technique.”<sup>20</sup> Ameritech also asserts that UNP is not a conservation measure because, when individual carriers lose control over spare numbers, they will

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<sup>17</sup> The Massachusetts DTE has pointed out that they are yet again in a crisis situation and may need to implement yet another area code in Eastern Massachusetts. But, proceedings on rate center consolidation have just begun and Bell Atlantic feasibility studies will not be complete until January 2000. Thousands-block pooling would provide the needed relief. Massachusetts DTE comments at 3-4; and California PUC comments at 27.

<sup>18</sup> ALTS comments at 22; USTA comments at ii; and Massachusetts DTE comments at Attachment A at 11.

<sup>19</sup> Comments of the California PUC at 27.

<sup>20</sup> BellSouth comments at 9-10.

demand additional numbers to hedge against shortfalls and carriers will “raid other carrier inventories in order to obtain certain desirable numbers.”<sup>21</sup> This is simply not the case. UNP is an optimization technique because it allows for the efficient use and allocation of numbers to end-users. From an end-user perspective, carriers should not be wielding telephone numbers as competitive weapons, but instead should be cooperating to ensure that users’ demands for telephone numbers are being satisfied as efficiently as possible. Furthermore, as MCI WorldCom’s plan indicates, UNP increases the flexibility with which numbers are assigned, thus increasing end user choice.<sup>22</sup> UNP also has the potential to reduce the consumption of NXX codes. By making resources more widely available, UNP will not trigger the number hoarding that Ameritech envisions, and indeed will have precisely the opposite result.

While AT&T believes that “[c]arriers should be allowed to voluntarily enter into UNP arrangements,”<sup>23</sup> and NEXTLINK supports UNP as long as it remains voluntary,<sup>24</sup> Ad Hoc does not concur because the twin prongs of competitive pressures and parochial interests will work to undermine any “voluntary” UNP arrangement. If carriers perceive UNP mainly in terms of losing control over “their” numbers, then they will not voluntarily enter into UNP arrangements. Thus, even if consumers and the industry as a whole benefit from UNP, carriers

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<sup>21</sup> Ameritech comments at 47.

<sup>22</sup> Comments of MCI WorldCom, Inc. at Attachment III.

<sup>23</sup> AT&T comments at 41.

<sup>24</sup> NEXTLINK comments at 11.

will continue to act in a self-interested manner and refrain from entering into any UNP agreement unless required to do so.

Key states generally agree with Ad Hoc that UNP and thousand-block pooling “can be used simultaneously.”<sup>25</sup> Furthermore, the National Emergency Number Association (“NENA”) submits that there does not appear to be any problem for 911 or E-911 service reliability intrinsic in UNP implementation,<sup>26</sup> and in fact once assigned, there is no technical difference in the number porting process between a porting arrangement that involves a previously working number and one that involves a previously unassigned number. Widespread adoption of UNP could eliminate the need of many carriers to obtain full NXX codes or even 1,000-number blocks in situations where only a handful of individual numbers are actually required, and could also permit the reclamation of large quantities of numbers in highly underutilized NXXs. By itself or in conjunction with other conservation measures, UNP will make a major contribution to long-term NANP relief by significantly increasing both ILEC and CLEC utilization levels. Therefore, states should be permitted to pursue the UNP option in addition to other conservation methods.

**D. The FCC should abandon the concept of using fees to allocate numbering resources.**

Numerous parties are in agreement with Ad Hoc’s view that there is no merit to the concept of instituting fees for numbering resources to rationalize number allocation and slow number consumption. While there may be

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<sup>25</sup> *State Position Outline* at 16.

<sup>26</sup> Comments of the National Emergency Number Association (“NENA”) at 6.

theoretical merit to using economic signals to allocate scarce resources, imposing a pricing regime is not suitable in this case and at this time for several reasons identified by commenters. First, a disproportionate amount of the added cost and administration would likely fall on new entrants, and thus discriminate against them. Second, the economic signals would be inefficient given the fact that the current system requires carriers to obtain far more numbers than they actually need. Because numbers are currently available only in blocks of 10,000, fees under the current allocation system would penalize those who are forced to take more numbers than they need or want. Ameritech and USTA agree with Ad Hoc that fees would discriminate against new entrants and might in fact act as a barrier to entry.<sup>27</sup>

Given the questionable benefits and discriminatory nature of a fee system for numbering resources, Ad Hoc supports the position of most commenters that this proposal be dismissed by the Commission.<sup>28</sup>

**E. Mandatory ten-digit dialing is not a cost-effective strategy for number conservation.**

As Ad Hoc demonstrated in its initial comments, ten-digit dialing is inconvenient, confusing, and leads to dialing errors and unwanted long distance charges. Many commenters agree with this characterization of ten-digit dialing.<sup>29</sup>

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<sup>27</sup> USTA comments at 13 and Ameritech comments at 54.

<sup>28</sup> In addition to commenters cited above, others have expressed concerns on this issue: MediaOne comments at 6; AT&T comments at 61-63; MCI WorldCom comments at 48-49; Bell Atlantic comments at 33-34; ALTS comments at 27; and California PUC comments at 41.

<sup>29</sup> Comments that agree with Ad Hoc include, but are not limited to the following parties: MediaOne comments at 28 and Comments of SBC Communications, Inc. at 101.

USTA advocates that the Commission mandate ten-digit dialing at the national level. It argues that this measure is a conservation measure in and of itself, and claims that it would also “facilitate the NANP expansion plans that are built on a ten-digit dialing format.”<sup>30</sup> This position assumes that NANP expansion is a foregone conclusion. Ad Hoc strongly opposes any number conservation measure that allows for NANP expansion. Expansion simply is not an option given the extreme cost and time involved in such an undertaking. Furthermore, ten-digit dialing is not a conservation measure; it is instead one of the negative consequences of *failing* to conserve numbers. US West concurs, noting that ten-digit dialing “will not itself extend a potential NPA exhaust date.”<sup>31</sup> As stated in Ad Hoc’s initial comments, the quantity of protected NXXs is very small and the benefit of using ‘0’ and ‘1’ (or creating ‘XXX’ codes) is too low given the cost.<sup>32</sup>

The members of ALTS argue that ten-digit dialing is required so as not to disadvantage CLECs in overlay area codes. Ameritech argues, and Ad Hoc agrees, that this position does not stand up to recent technological developments, such as local number portability (“LNP”) whereby “existing customers of incumbent LECs can transfer their service to a CLEC, and retain their existing number and seven-digit dialing capabilities.”<sup>33</sup> Furthermore, this

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<sup>30</sup> USTA comments at 7.

<sup>31</sup> US West comments at 13.

<sup>32</sup> In fact, as several commenters have noted, the use of a ‘0’ or ‘1’ as the ‘D’ digit could actually undermine a smooth transition to an expanded NANP if expansion is ultimately required. No NANP expansion could possibly be “flash-cut,” and thus some extended permissive dialing period will be necessary. A ‘0’ or ‘1’ prefix could serve as an interim designator of the caller’s use of the expanded dialing format; if these numbers are assigned to the ‘D’ digit, that opportunity could be foreclosed, only adding to the difficulty and cost of NANP expansion.

<sup>33</sup> Ameritech comments at 35.

would become even less of an issue if pooling and UNP were implemented, thus reducing the need and prevalence of area code overlays and allowing greater CLEC access to NXX codes in existing NPAs.

Ten-digit dialing is a measure that has minimal benefits and high costs. AT&T asserts that ten-digit dialing is relatively easy and cost-free in comparison with “more expensive and difficult measures such as pooling.”<sup>34</sup> This is an example of the industry’s continued disregard for the costs to consumers of user-unfriendly numbering policies. If consumer costs and benefits are also included in the industry’s cost/benefit analysis of the available conservation measures, ten-digit dialing easily fails the cost/benefit test and becomes much more costly in comparison to pooling measures, which impose minimal, if any, costs to consumers. The Commission should concern itself with targeted conservation measures, such as pooling, that provide real benefits in terms of conservation and that have relatively small implementation costs given the fact that consumers have already paid for LNP-capability. Therefore, the Commission should conclude that mandatory ten-digit dialing is a not a cost-effective option for numbering conservation, and reject its adoption on a national level.

### **Conclusion**

Numbering policies and resource optimization measures must be based upon adequate consideration of the total societal costs and benefits of the alternatives available. The industry’s prior numbering policies have tended to be narrowly focused and have thus ignored the consequences and side effects for

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<sup>34</sup> AT&T comments at 36.

consumers. For example, while the Commission, in foreclosing service- or technology-specific overlays, was concerned about the anticompetitive implications of this solution as between wireline and wireless services, it failed to consider (1) the far greater anticompetitive impacts upon new wireline entrants of all-services overlays, where the incumbent LECs control massive inventories of numbers in the traditional NPA; or (2) the immense societal costs of area code splits, both of which became the only solutions available to state commissions following the Ameritech ruling.<sup>35</sup> Thus, Ad Hoc agrees with NASUCA and the Texas OPUC that even the possibility of NANP expansion should be taken "off the table" because of its staggering costs and societal impacts. The Commission needs to act, and act soon, to avoid this untenable outcome.

Respectfully submitted,



Lee L. Selwyn  
Helen Golding  
Scott C. Lundquist  
Economics and Technology, Inc.  
One Washington Mall  
Boston, MA 02108-2617  
617-227-0900

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Colleen Boothby  
Levine, Blaszak, Block and Boothby, LLP  
2001 L Street, NW  
Suite 900  
Washington, DC 20036  
(202) 857-2550

Economic Consultants

Counsel for  
The Ad Hoc Telecommunications  
Users Committee

August 30, 1999

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<sup>35</sup> *Ameritech Order, supra*, note 2.

## Certificate of Service

I, Betsy M. Eisen, hereby certify that true and correct copies of the preceding Reply Comments of the Ad Hoc Telecommunications Users Committee in CC Docket No. 99-200, Numbering Resource Optimization, were served this the 30<sup>th</sup> day of August, 1999 upon the following parties via hand delivery.



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Betsy M. Eisen

ITS  
1231 20<sup>th</sup> Street, NW  
Washington, DC 20554