

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Connecticut Department of Public Utility Control)	RM No. 9258
Petition for Rulemaking to Amend the Commission's)	
Rule Prohibiting Technology-Specific or)	
Service-Specific Area Code Overlays)	
)	
Massachusetts Department of Telecommunications)	NSD File No. L-99-17
and Energy Petition for Waiver to Implement a)	
Technology-Specific Overlay in the)	
508, 617, 781, and 978 Area Codes)	
)	
California Public Utilities Commission and the People)	NSD File No. L-99-36
of the State of California Petition for Waiver to)	
Implement a Technology-Specific or Service-Specific)	
Area Code)	
)	
North American Numbering Council Recommendation)	NSD File No. L-99-51
Concerning Replacement of Central Office Code)	
Utilization Survey)	

**REPLY COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION**

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SUMMARY

USTA continues to strongly urge the Commission to adhere to its national number conservation and optimization policies. To abandon them at this critical time would result in a significant loss of effectiveness of the national program and its numbering conservation and administrative approaches.

Individual states have made requests for additional authority from the Commission to pursue their own number conservation measures. USTA is vigorously opposed to such requests. The states have not made a substantive case for requested delegation. They have not made recommendations for administrative procedures or processes that are new or unique, and that are not or have not been considered at the national level. What they ask for is delegation of authority to compel measures that are being considered at the national level. They have not exercised due diligence to gain the maximum advantage available from cooperating with and supporting the efforts of the North American Numbering Plan Administrator. The states should address those opportunities as a first objective.

A major effect of the requested delegation would be to invite numerous additional states to ask for similar delegation of authority.

If individual states are granted authority in numbering matters, they will initiate proceedings to develop the details of the various plans. The affected companies will have no choice but to concentrate their expert resources at the state level, thereby removing support of the national activity.

Granting of authority, depending on the extent, will create numerous jurisdictional and practical problems.

Some of the requests for grant of authority would affect activities of the North American Numbering Administrator (NANPA). Costs of number administration are also paid for from funds collected on a national basis by the NBANC. Differing requirements on the administrator in different state jurisdictions may not be payable from a national fund.

Once the Commission has delegated an element of its responsibility, there will be no practical method of regaining the delegated authority. Thus, the Commission must maintain its responsibility for all aspects of numbering administration in accordance with the national structure developed in national processes that applies in all jurisdictions of the country.

USTA believes that several *interim* measures can be adopted by the Commission that will foster carrier behavior in furtherance of number conservation and would not adversely affect the national scheme for mitigating NANP exhaust. They include:

1. Suspend the existing mandatory ten digit dialing requirement for overlays.
2. Require all carriers to assign numbers by thousand blocks in those service areas in the top 100 MSAs where local number portability (LNP) capability is available.
3. Order NANPA with the help of the states to develop a national code reclamation effort.
4. Require all carriers to comply with COCUS data submission or similar reporting requirements in effect at the time before they can receive additional number resources.
5. Require all carriers to provide the states with additional utilization data upon request.

These measures should be effective only between the Commission's order in this proceeding is issued and when the permanent solutions adopted become effective.

USTA also addresses several specific issues that were raised by other parties in their comments. Mandatory ten-digit dialing is supported by a substantial number of parties. The interim proposal above should alleviate the consumer aversion to ten-digit dialing and remove the impediment to the states in implementing overlays during this time.

Technology-specific or service-specific overlays should not be employed. They would not advance number conservation, but would actually create new artificial demands for NPAs. Furthermore, when number porting takes place where Local Number Portability (LNP) is implemented, technology-specific overlays will become irrelevant.

The NRO Report recommendations for thousand block pooling should be implemented by the Commission. With regard to scheduling, consideration should be given to beginning thousand block pooling within 19 months from the date of a Commission order with a 2-3 year period to complete implementation based on a Commission schedule. Cost recovery for implementing pooling must be provided for by the Commission. Indeed, the Commission has statutory responsibility to do so. The same criteria that were adopted by the Commission for LNP cost recovery should be employed for pooling cost recovery.

Unassigned Number Porting and Individual Telephone Number Pooling both have significant problems and should not be implemented.

The NRO recommendation regarding the amount of time a code can be held in reserve status, which is different from the 45 day period specified by the Commission, should be followed by the Commission.

With regard to enforcement, the Commission should determine how to best enforce the industry guidelines and standards and make clear that the guidelines are established and that the penalty for noncompliance is withholding of number resources. Audits should be “for cause” and on a random basis.

USTA continues to emphasize the need to obtain an accurate estimate of NANP exhaust and criticizes the Lockheed Martin CIS NANP Exhaust Study. Furthermore, USTA supports the Issue Management Group report evaluating the NANPA model and its results. Additional studies should be performed using the NANP Exhaust Model with realistic assumptions and data, as well as further examination of the model itself.

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**REPLY COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) hereby files its reply comments to the comments filed in response to the Commission's Notice of Proposed Rulemaking (Notice) in the above-captioned proceeding.¹

In its comments, USTA strongly advocated that the Commission continue to rely on industry guidelines developed by open processes in those areas where they exist and to not adopt

¹ FCC 99-122, released June 2, 1999. A separate Public Notice was issued asking for comments on the North American Numbering Council (NANC) recommendation regarding replacement of the Central Office Code Utilization Survey (COCUS) to be included in this proceeding. Public Notice, DA 99-1315, released July 1, 1999.

burdensome regulations. In addition, USTA advocated that the Commission separate and maintain a staunch enforcement posture toward those issues dealing with North American Numbering Plan (NANP) exhaust from those involving NPA exhaust.

Among those conservation measures proposed in the Notice, USTA supported in its comments implementation of mandatory ten-digit dialing and a phased implementation of thousand block pooling where implementation meets criteria that maximize its benefits. USTA maintained that cost recovery for thousand block pooling should be through an end user surcharge. On the other hand, USTA stated that certain measures, such as carrier choice of numbering optimization strategies and requiring carriers to pay for numbering resources, should be abandoned as unworkable or beyond the Commission's jurisdiction.

In its comments, USTA also urged the Commission to avoid certain administrative proposals to codify industry guidelines because they would otherwise create burdensome regulations that would yield little in the way of number optimization. This included reporting of carrier data, audit programs and enforcement. USTA reasoned that existing and developing industry guidelines regarding geographic splits and all-service overlays are effective and should be followed by the industry, and that additional Commission-developed regulations are unnecessary. USTA also advocated the retention of the Commission's current prohibition against service-specific and technology-specific overlays.

Finally, in comments in this proceeding and on the individual state petitions for additional number conservation measures, USTA has repeatedly cautioned the Commission against taking any actions on the proliferative state requests that would jeopardize the national number conservation measures developed through the industry process.

The USTA position for a nationwide policy of number conservation and adherence to industry guidelines was supported by virtually all of the industry that represents users of

numbers, including the incumbent local exchange carriers (ILECs), competitive local exchange carriers (CLECs), interexchange carriers (IXCs), and wireless carriers. In fact, many of the state entities recognized the need for nationwide guidelines and technical standards. In addition, USTA's advocacy of policies on specific issues was supported by a clear majority of other industry participants. This broad agreement among the industry is evidence of the consensus that exists around numbering conservation issues and should serve as a firm foundation for the Commission to take actions on these issues that reflect USTA's positions.

In these reply comments, USTA again addresses the critical need for the Commission to adhere to its national number conservation and optimization policies in light of the other parties' comments. Specifically, USTA describes the adverse consequences to the public that can be anticipated if the individual pending state petitions are granted. USTA also sets forth five interim measures that the Commission could adopt to alleviate the states' concerns and still preserve the national model. In a separate section, USTA responds to individual issues raised in the Notice and addressed by USTA and other parties in their comments.

I. The Need for a National Model

The Commission has consistently determined that an orderly scheme of national numbering conservation and administration is essential to the overall optimization of the NANP. USTA and other parties have urged the Commission to adhere to its policies; to abandon them would result in a significant loss of effectiveness of the national program and its numbering conservation and administrative approaches. Specifically, the Commission should not compromise its ability to develop and administer a national structure by allowing individual states to pursue their own number conservation measures that, if granted, would undermine the national model.

A. Adverse Consequences that Would Result if Individual State Petitions are Granted

USTA is very concerned that the Commission will yield to the pressure being applied by the states to delegate significant elements of responsibility for numbering administration to individual state jurisdictions.

1. The Commission has, over many years, developed a very tight construct that stands as a basis for the position that the FCC has ultimate authority in numbering issues. To now delegate such authority would, in effect, abrogate that entire effort.

Section 251(e)(1) of the Communications Act of 1934, as amended, (the Act)² provides that, "The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States. Nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities all or any portion of such jurisdiction." The Commission has specifically recognized its jurisdiction.³ The Commission has developed a strong record in this area -- "As the Commission has stated, a nationwide, uniform system of numbering is essential to the efficient delivery of telecommunications services in the United States....such attempts, however, cannot be made on a piecemeal basis without jeopardizing telecommunications services throughout the country. Substantial social and economic costs would result if the uniformity of the North American Numbering Plan were compromised by states imposing varying and inconsistent regimes for number conservation and area code relief."⁴ USTA believes that a single state's abuse of delegated power, *i.e.*, inefficient use, would have a negative impact on all users of numbering resources.

² 47 U.S.C. § 251(e)(1).

³ Memorandum Opinion and Order and Order on Reconsideration, *Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717*, NSD File No. L-97-42, 13 FCC Rcd 19009 at ¶ 5 (1998) (Pennsylvania Order).

⁴ *Id.* at ¶ 21.

These statements were made in the Pennsylvania Order in response to numerous state activities that would have the effect of imposing terms and conditions on numbering activities otherwise subject to national jurisdiction that would be non-uniform, in that they would be unique to individual jurisdictions. Not surprisingly, the states have sought reconsideration of the Pennsylvania Order and delegations of further authority, relying on the fact that the Commission did delegate some responsibility to the states, and claiming that it might be necessary and appropriate to delegate more.

The fact that carriers and customers nationwide are all facing difficulties because of the demands on the numbering resource is not a reason to abandon a rational progression of learning. USTA has repeatedly filed comments supporting the Commission's determination that a uniform national set of procedures is essential to a secure future for telecommunications. USTA and its members are working with all possible diligence in the federal environment to develop new procedures and resources in order to address these issues. The Commission must now stand firm in the face of extreme pressure to maintain order and consistency or risk losing the benefit recent experience.

If the Commission had acted in a timely manner in denying the states' reconsideration petitions of the Pennsylvania Order, much of the current debate could have been avoided. USTA believes that lack of action on the Commission's part has given the perception that it will grant some additional authority. This perception has been reinforced recently by hints in statements made by Commission officials.⁵

USTA believes that, if the Commission now reverses its previous record, it will abrogate the responsibility based on a record that it has so carefully developed in numbering issues, and that such action will open the floodgate to development of multiple inconsistent programs in

⁵ See Remarks of Chairman Kennard, NARUC Meeting, July 19, 1999.

different state jurisdictions. The state plans will not improve the utilization of numbering resources. They will not hasten the day when new procedures become available. Rather, as demonstrated in their comments, the states are seeking to do what is in their narrow, short term best interest.⁶ They show complete disregard for national policy. They are distracting needed resources from concentrating on development of procedures and remedies that will work and that are applicable on a national scale.

USTA implores the Commission to assert its leadership to reaffirm the need for national consistency, dismiss these ill-founded and meritless proposals, and make clear that the state efforts would undermine the development of durable and effective national structures. Only then will there be an incentive for all parties to focus the industry's undivided attention on rapid development of the national structure.

2. The states have not made a substantive case for requested delegation. They have not made recommendations for administrative procedures or processes that are new or unique, and that are not or have not been considered at the national level. What they ask for is delegation of authority to compel measures that are being considered at the national level. They have not exercised due diligence to gain the maximum advantage available from cooperating with and supporting the efforts of the North American Numbering Plan Administrator. The states should address those opportunities as a first objective.

It would be much more difficult for the Commission to decide these issues if the states in their requests for delegated authority had offered some original proposals to ameliorate the problems the industry is facing. But they have not. The state petitions, without any indication as to how they would proceed, simply asked for the authority to require measures that are being studied and developed at the national level.

Significant among these request is the authority to mandate thousand block pooling. An examination of the record will show that the industry, through the efforts of the North American Numbering Council (NANC) and its associated forums and supporting industry groups, is

⁶ See Comments of the New York Department of Public Service (New York) at 3; California Public

making significant progress toward development of a comprehensive plan for thousand block pooling that can be deployed on a national basis. Thousand block pooling is a measure that involves complex development and requires careful application. It requires a separate administrator, and Lockheed Martin has been recommended by NANC to be that entity. It requires a new series of functions that are being developed by the Industry Numbering Committee (INC). It requires new functionality in the Number Portability Administration Centers (NPACs). The details of these functions are not fully developed. The considerations have led to exploration of new relationships between the Limited Liability Corporations (LLCs) and entities other than the NPACs for which the LLCs are responsible. The functionality and operation of the NPACs are provided on a regional basis, not state-by-state.

Despite these complex issues, the states wish to have authority to require implementation of thousand block pooling on a state-by-state basis. They also generally seek authority to develop unique versions of pooling. It is clear that the primary motivation for these requests is that the states are grasping for measures that will alleviate the need to plan responsibly for NPA relief in sharp conflict with the fact that thousand block pooling has been designed and is intended for application to NPAs relatively early in their lives so that the maximum benefits can be obtained from the considerable effort and expenditure of resources that are required whenever a new NPA is implemented. Even when thousand block pooling is available nationwide, its implementation must be phased in accordance with a nationwide plan⁷ for reasons set forth in this proceeding.⁸

The fact that the states have requested this authority attests to the fact that the requesters believe that they can implement pooling locally sooner than it could be accomplished on a

Utilities Commission and the People of the State of California (California) at 6-10.

⁷ See Notice at ¶ 144.

⁸ *Id.* at 148-153. USTA Comments at 8-10 and Reply Comments at § (II)(C).

national basis. USTA believes that this reveals a complete lack of understanding of the complexity and national implications of such deployment, as well as an intent to apply pooling in a manner inconsistent with the carefully drawn principles of the Pennsylvania Order, *i.e.*, that planning for relief be accomplished before a state commission may actively engage in conservation activities. The states have demonstrated their inability to implement pooling⁹ and their intent that, in the event they could deploy pooling, to conduct that deployment in a manner that could materially differ from the national structure.

3. A major effect of the requested delegation would be to invite numerous additional states to ask for similar delegation of authority.

Already, New York, Massachusetts, Maine, Florida, California, Texas, Connecticut and Wisconsin have filed petition seeking additional authority. The Wisconsin petition serves as a prime example of the “piling on” mentality exemplified by the filing of these petitions, since it provides no unique justification for the delegated authority it seeks. We anticipate that this experience will continue for as long as the Commission permits any doubt to exist concerning its intent. These repetitive petitions consume energy and divert attention from the larger national issues that must be resolved.

4. If individual states are granted authority in numbering matters, they will initiate proceedings to develop the details of the various plans. The affected companies will have no choice but to concentrate their expert resources at the state level, thereby removing support for the national activity.

⁹ Some may cite the experience of Illinois in attesting to the feasibility of individual state deployments. When doing so, however, it must be recognized that Illinois engaged in an extended process to develop and implement a version of pooling that preceded and is not fully compliant with the national standard. Indeed, when the developing national standard is ready for implementation, Illinois will be converted to that standard. In addition, while most observers agree that pooling has been beneficial in the 847 NPA and a decision has been made to extend pooling to other NPAs in Illinois, there continues to be considerable controversy as to whether the major experienced benefit is due to pooling or is largely attributable to other factors. Extending a deployment is not the same as making a new deployment, and USTA believes that implementation of pooling in other areas could take considerable advantage from the Illinois experience. It must be kept in mind, however, that the Illinois case involved a state in which the commission and the carriers were united in a determination to implement this plan. Even in an environment of aligned objectives, implementation was time consuming and costly. Any party citing the Illinois case must realize the unique conditions that prevailed there and recognize that replication of these conditions is highly unlikely.

If states are granted authority in numbering matters, they must proceed to implement their individual plans in accordance with their particular regulatory structures. This will result in multiple parallel activities that will have the effect of removing effective industry support for continued development of national programs.

Every telecommunications service provider is required to pay close attention to actions on the part of its state regulators. If a particular state in which a carrier operates begins a proceeding that will impact an issue as critical as numbering, the carrier has no choice but to dedicate the best expertise available to participation in those activities. There are a limited number of such experts available in any company, and indeed, in the industry. Opening of state-specific proceedings on multiple numbering issues that the state has the authority to implement, will force the carriers involved to divert their best resources to the state proceedings.

As an example, we only need consider the situation in Illinois. This activity has had a beneficial result, in that a form of thousand block pooling was developed and implemented under the positive circumstances previously described. In order to achieve this result, the carriers had to concentrate a significant amount of their numbering resource expertise on that state activity, which might otherwise have been available on a national basis. Clearly, some of the resources utilized would be required to support implementation of any plan, but here we are concerned with design and development of the plan.

Multiple parallel activities will have the effect of distributing industry resources such that the quality of the individual proceedings and the resulting conclusions will be of much lower quality than that which would result from a single national inquiry into these issues.

Furthermore, USTA believes that grant of multiple state petitions for authority in these matters would virtually destroy the relevance of national planning. This would have the negative effect that the Commission itself has articulated:

"As the Commission has stated, a nationwide, ***uniform system of numbering*** is essential to the efficient delivery of telecommunications service in the United States. The Commission, the state commissions and the industry should work together to bring about as quickly as ***possible national methods to conserve and promote efficient use of numbers that do not undermine that uniform system of numbering***. Such attempts, however, ***cannot be made on a piecemeal basis*** without jeopardizing telecommunications services throughout the country."¹⁰

5. Granting of authority, depending on its extent, will create jurisdictional and practical problems.

In the matter of pooling, significant new pooling related capabilities must be implemented in the NPACs. Each center provides service to telecommunications carriers operating in different state jurisdictions, and all of the regulatory authorities and entities involved would have to agree on the precise details of all of the features and functions required of the NPAC. USTA believes that the costs of feature development in the NPACs and some functional costs would be recovered by payments from the NBANC, funds which are obtained on a national level. It may not be permissible to pay the costs for state-mandated developments from this national funding mechanism. In addition, in the current structure, all of the NPACs implement common capabilities on a coordinated schedule; they are also considering further consolidation. Grant of authority to individual states could prevent some of the economies of scale available in a national structure and further complicate the payment issue.

In the case of number pooling, the NANC proceedings clearly illustrate that some essential elements of pooling require the services of an administrator and additional functionality in the NPAC. If a particular state were to develop an individual plan, a significant question would arise as to how to develop the specifications for the functionality required and how to implement those capabilities in an NPAC that also supports local number portability in other states. This raises the question of whether individual NPACs could have multiple different

¹⁰ Pennsylvania Order at ¶ 21 (emphasis added, footnote omitted).

features depending on different requirements in the states in which the pooled NPAs are assigned.

This also raises the question of how the prioritization of various projects would be established and how the costs would be allocated and recovered. As a basic requirement, software will need to be developed to establish the desired features in accordance with the national plan. If various states were to develop different versions of pooling, those involved¹¹ would have to establish which version had priority and determine whether a particular NPAC would be required to support multiple versions of pooling.

For these reasons, USTA believes that, were the Commission to delegate any pooling authority to the states, the effect would be to lengthen, not shorten, the time required to fully develop and deploy pooling. In addition, developments of detailed features in the NPACs could have an adverse effect on LNP. Because pooling utilizes LNP as an essential basic capability, we see pooling as an extension of LNP--its functionalities are not separable from LNP. Therefore, were the Commission to authorize individual state pooling structures, the result could threaten the viability of LNP. The Commission must not permit the states to engage in any activity that has the potential to interfere with functionalities in the NPACs, and therefore cannot delegate responsibility to states to develop individual forms of number pooling.

6. Some of the requests for grant of authority would affect activities of the North American Numbering Administrator (NANPA). Costs of number administration are also paid for from funds collected on a national basis by the NBANC. Differing requirements on the administrator in different state jurisdictions may not be payable from a national fund.

The states petition for authority to implement various measures to exert regulatory authority in regard to administration and reclamation of numbering resources.¹² USTA believes

¹¹ The parties we believe affected include the state commissions, the telecommunications service providers, the LLCs and the administrator.

¹² New York Department of Public Service Petition, NSD File No. L-99-21 (New York Petition); Massachusetts Department of Telecommunications and Energy Petition, NSD File No. L-99-19 (Massachusetts

that the states have a number of options available that have not been fully exercised, as described in Section (I)(B) below. There, we describe these measures and offer suggestions as to how they may be better implemented. However, as stated in our responses to the individual state petitions¹³. USTA believes that the Commission must not authorize the states to take any action that will infringe on the authority of NANPA.¹⁴

If such action were to be taken, the result would create a condition of competition between two entities for discharge of the same responsibility. This current situation of uncertainty stems from the fact that the NANPA may not be sure of its specific authority to engage in some activities essential to effective numbering administration. This problem can be ameliorated by specific Commission action to clarify that NANPA in its numbering administration functions is acting pursuant to authority of the Commission. This would remove any uncertainty that the avenue the states have for implementing some of the measures for which they ask authority, *e.g.*, reclamation of unused codes. Influence over those activities is available to the states by working in cooperation with the administrator.

Most parties understand that these powers should be exercised by the NANPA, and in the case of the recent Wisconsin filing, the petitioner states that the authority it seeks "merely involves strict enforcement of existing industry guidelines."¹⁵ Wisconsin also states that "...the code administrator (Lockheed Martin, the North American Numbering Plan Administrator) has

Petition); Maine Public Utilities Commission Petition, NSD File No. L-99-27 (Maine Petition); Florida Public Service Commission Petition, NSD File No. 99-33 (Florida Petition); California Public Utilities Commission and People of the State of California Petition, NSD File No. 98-136 (California Petition); Texas Public Utility Commission Petition, NSD File No. 99-55 (Texas Petition); Connecticut Department of Public Utility Control Petition, NSD File No. 99-62 (Connecticut Petition) ; and Wisconsin Public Service Commission Petition, NSD File No. 99-64 (Wisconsin Petition).

¹³ See USTA's Comments and Reply Comments on the various petitions listed in n. 10, *supra*.

¹⁴ Second Report and Order and Memorandum Opinion and Order, *Administration of the North American Numbering Plan*, FCC 96-333, ¶ 19, released August 8, 1996 (North American Numbering Plan Second Report).

¹⁵ Wisconsin Petition at 4.

little or no authority to enforce the requirements contained therein."¹⁶ In this case, USTA believes that Wisconsin has provided some valuable insight. What the Commission needs to do is to affirm the authority of the NANPA to engage in and fully discharge the responsibilities attendant to code administration in accordance with national guidelines. Such action would be consistent with the Commission's obligations, and would support, rather than undermine, the basic national administration structure.

We also observe that the activities of the NANPA are paid for in accordance with a structure developed in the Commission's North American Numbering Plan proceeding.¹⁷ If individual states were to be given enforcement authority, would they then come seeking compensation for their activities? USTA believes that individual states' administration of a national numbering resource could not be compensated from a national fund that is collected from all carriers nationwide.

We believe it much more likely that the presence of two competing authorities would have the effect of increasing the complexity and reducing the effectiveness of the administrator's efforts. This could be expected to increase the cost of the administrator's activities and would require additional funds. We think it unlikely that the industry would agree to increasing the amount of money collected and disseminated for this function, due to grant of authority to individual states.

This illustrates that in this case as well, actions that the Commission might take are likely to impact national programs that are already in existence and operation. Grant of authority to states would have the effect of distorting these structures and would threaten their viability. The much more straightforward action available to the Commission, action that is clearly needed and

¹⁶ *Id.* at 5.

¹⁷ North American Numbering Plan Second Report at ¶ 21.

consistent with the overall objectives of the national administration plan, is to reaffirm the authority of the administrator to engage in its assigned activities and to do it expeditiously.

7. Once the FCC has delegated an element of its responsibility, there will be no practical method for regaining the delegated authority.

USTA believes that the record reveals a significant determination on the part of state commissions to obtain delegation of authority for a significant amount of numbering administration. We have stated before, even while advising against such delegation, that we understand much of the motivation for these requests. But the nature of these requests is also the best evidence that they must not be granted.

If in the future, the Commission would find it necessary to reconsider any such delegation (a situation that we consider likely), the states would have developed records in related proceedings and possibly implemented significant programs in regard to the delegated authority. While we believe it may be possible to reclaim some of the delegated authority to the national structure, it would likely result in additional dislocation and strife to dismantle the state activities.

USTA believes that the record shows that the states want delegation of authority and, regardless of their intentions to respond to local conditions, the result would be inconsistent programs, which would have the effect of advancing the exhaust of the NANP, an inability to accurately predict NANP exhaust, and increase of costs of administration. But what is most troubling of all is the interactive effects of such action. In an action concerning numbering, an action taken in one jurisdiction could, and is likely to have, implications on the national situation and on other jurisdictions.

For these reasons, we believe that the Commission must maintain its responsibility for all aspects of numbering administration in accordance with a national structure developed in

national processes that applies in all jurisdictions in the United States. The states have options to participate in these activities under federal procedures. We believe that maintenance of this authority is one of the most important responsibilities the Commission must reaffirm as its own. The Commission was correct in the Pennsylvania Order. It is of paramount importance that the Commission reaffirm that result

B. Interim Measures that Can be Taken to Alleviate State Concerns and Preserve the National Model

As has been stated repeatedly, USTA realizes that the states are faced with significant difficulty as a result of the rapid increase in demand for numbering resources. This situation has resulted in considerable pressure on the states to “do something” to alleviate the difficulties and dislocations that are the result of frequent and repeated area code relief. Rather than grant individual states’ requests for delegated authority to implement pooling trials or other similar NPA relief measures, interim measures could be adopted that would foster carrier behavior in furtherance of number conservation and would not adversely affect the national scheme for mitigating NANP exhaust. Toward that end, USTA proposes that the Commission adopt the following measures in an order in this proceeding to be effective for an *interim* time period, *i.e.*, between when the order is issued and when the permanent national solutions adopted become effective:

1. Suspend the existing mandatory ten digit dialing requirement for overlays.
2. Require all carriers to assign numbers by thousand blocks in those service areas in the top 100 MSAs where local number portability (LNP) capability is available.
3. Order NANPA with the help of the states to develop a national code reclamation effort.
4. Require all carriers to comply with COCUS data submission or similar reporting requirements in effect at the time before they can receive additional number resources.

5. Require all carriers to provide the states with additional utilization data upon request.

These interim measures would cause all parties to work together toward implementing solutions to the situations facing the states and the industry of NPA relief and NANP conservation. They require sacrifices by the carriers to implement administrative measures for assignment of thousand blocks and to comply with additional reporting requirements. The states would be in a position to objectively utilize overlays and would have additional utilization data upon which to base relief decisions. NANPA would be required to engage in more direct and responsive reclamation efforts. Adopting such interim measures would be far superior to granting the patchwork requests of the individual states. The above USTA list of interim measures should be adopted by the Commission immediately.

II. Specific Issues Raised in the Notice

A. Mandatory Ten Digit Dialing

USTA's advocacy of a national uniform mandatory ten-digit dialing plan is supported by a substantial number of other parties. There are good policy reasons to adhere to the Commission policy for overlays¹⁸ and USTA continues to support mandatory ten digit dialing implementation nationwide. A number of states have indicated that the mandatory ten-digit dialing requirement is causing an impediment to full consideration of implementing overlays. This emanates from a consumer perception and an aversion to ten-digit dialing within an NPA, which results in consumer opposition to overlays. In order to remove this barrier to implementation of overlays, USTA believes that the Commission should suspend its existing mandatory ten-digit dialing requirement on new overlays until the permanent solutions to mitigating NANP exhaust adopted in this proceeding become effective, as proposed in Section (I)(B) above. By making this recommendation, USTA believes that permissive ten digit dialing

must be implemented at the initiation of any overlay code, and this requirement should be part of the temporary suspension. USTA does not support any regression to seven digit dialing where ten-digit dialing has been implemented, and emphasizes that its recommendation would not result in exceptions to mandatory ten digit dialing once permanent national solutions to mitigate NANP exhaust are effective.

Hopefully, this interim prospective proposal will serve to remove the apprehension of the states to implementing overlays where appropriate when they craft relief plans. Such a solution should give consumers the opportunity to become accustomed to ten-digit dialing. The Commission and the states should engage in a campaign to educate consumers about ten-digit dialing.

B. Technology-specific or Service-specific Overlays

USTA and a majority of the industry oppose technology-specific or service-specific overlays. No party who advocates the use of such overlays has demonstrated any basis in fact for the Commission to change its policy. Until there is evidence on the record to the contrary, the Commission should retain its prohibition against these types of overlays. There is no evidence which indicates that technology-specific overlays advance number conservation. To the contrary, they would create new artificial demands for NPAs. For example, if every state implemented one technology-specific overlay, 50 additional NPAs would be required that would not otherwise be utilized. Furthermore, when number porting takes place where LNP is implemented, technology-specific overlays will become irrelevant because numbers will be ported from the technology-specific overlay NPA to the non-technology-specific NPA and vice versa.

¹⁸ North American Numbering Administration Second Report at ¶ 286.

C. Number Pooling

The NANC/NRO Report recommends that a national structure is needed for thousand block pooling and provides a baseline for its implementation. USTA and many carriers supported the NRO Report provisions. With regard to implementation of thousand block pooling, a reasonable, phased approach is needed.¹⁹ While an exact schedule needs to be developed initially by the Commission based on complete information, it makes sense to consider beginning thousand block pooling within 19 months from the date of an order with a 2-3 year period to complete implementation based on a Commission schedule. It is important that a specific schedule by top 100 MSAs be mandated by Commission decision so that the activity list included in the NRO Report is followed by all parties involved. Other thousand block implementations would follow the mandated schedule and would be at the discretion of the individual states, affected carriers and the NPACs.

The Commission developed an implementation schedule for LNP and is familiar with the requirements for staging. The Number Portability Administration Centers (NPACs) have expertise in this area and should provide advice to the Commission regarding the roll-out scenarios that they think are practical. USTA believes that the schedule proposed by AT&T is too aggressive.²⁰ In addition, comments demonstrate that the Commission should consider a number of factors in determining a roll-out schedule.

D. Unassigned Number Porting (UNP)/Individual Telephone Number (ITN) Pooling

Significant problems have been enumerated with the implementation of UNP and ITN pooling as possible number optimization solutions. With regard to UNP, timing for implementation is a problem. Also, UNP would have a detrimental effect on LNP capability and

¹⁹ See Comments of MCI Worldcomm at 10-12, California at 28-29.

²⁰ Comments of AT&T at 43-44.

the availability of numbers. The Industry Numbering Committee (INC) examined this matter and listed the problems arising from UNP implementation and the issues that would have to be considered. The benefit of UNP is neither apparent nor supported by any of the comments. This issue has been fully briefed in the state petitions and no valid arguments for implementing either UNP or ITN pooling have been advanced there either. With regard to ITN, the comments demonstrate that this idea is discredited and should not be further considered by the Commission.

E. Cost Recovery

Carrier cost recovery associated with pooling is vitally important and must be adequately provided for by the Commission forthrightly. Carriers must be able to recover these costs when they incur them, not at some nebulous time in the future, as suggested by AT&T.²¹ Section 251(e)(2) of the Act²² provides that, "The cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."

The Commission has already dealt with cost recovery of LNP and, in so doing, set forth the following two criteria for determining competitive neutrality: (1) must not give one service provider an appreciable, incremental cost advantage over another service provider when competing for a specific subscriber; and (2) must not disparately affect the ability of competing service providers to earn a normal return."²³ These same criteria should apply to competitive neutrality in number pooling and require that a disparate outcome cannot be imposed on different types of carriers. Furthermore, state pooling implementations, if allowed, would add to the carriers' cost of pooling, but would not fall under the Commission's cost recovery mechanism, thereby depriving carriers of cost recovery.

²¹ Comments of AT&T at 54-55.

²² 47 U.S.C. § 251(e)(2).

F. Number Reservation

NANC has accepted the NRO recommendation regarding the amount of time a code can be held in reserved status, which is different from the 45 day period for numbers held in reserve for toll free assignment, as specified in the Commission's rules, as it was determined to be an insufficient period of time. This is an example of where the industry has assumed the responsibility to develop workable policies. The Commission needs to take this into account and follow the recommendation of the industry.

G. Enforcement

The industry has developed and continues to promulgate valid industry guidelines and standards. They require enforcement for them to be effective. The Commission should determine how to best enforce those guidelines, whether through the NANPA or directly to the Commission. In any case, the Commission must make clear that the guidelines are established and that the penalty for noncompliance is withholding of number resources. If NANPA is given enforcement authority, it should not be given discretion in performing this function. Furthermore, the states should not be involved in this enforcement. They have the option of filing for sanctions with the Commission or seeking changes in the existing policy.

H. Audits

Most parties agreed with USTA's position that the Commission should not adopt a comprehensive audit program, but rather should rely on "for cause" and random audits. This policy should be adopted by the Commission.

I. Exhaust Model for North American Numbering Plan

In its comments, USTA emphasized the need to obtain an accurate estimate of NANP exhaust. USTA also stated that the April 22, 1999 NANP Exhaust Study prepared by Lockheed

²³ Third Report and Order, *Telephone Number Portability*, CC Docket No. 95-116, 13 FCC Rcd 11701

Martin CIS²⁴ was flawed and was based on many unsound assumptions, as indicated by the industry comments.

USTA must once again emphasize this need and continues to stand by its criticism of the NANP Exhaust Study. At the August 25, 1999 NANC meeting, the Issue Management Group (IMG) formed by the NANC to address the Commission's request contained in paragraph 165 of the Notice presented its report containing the group's findings that support USTA's position. USTA was a member of that group of industry experts, which included many former members of the NANP Exhaust Review Team, that spent considerable time and effort reevaluating the NANPA's model and its results. Although the NANC did not reach consensus to forward the IMG report to the Commission, a significant number of the NANC members believed that the report contained findings that were meaningful and could be useful for the Commission in its decision-making process.

USTA supports the findings, listed below, from the IMG report:

- 1) Advancing CMRS participation in 1KB Pooling from 2003 to an earlier year does not appreciably defer the exhaust of the NANP in any documented variation of the NANP Exhaust Model. The IMG found that the same is true for any industry segment, *i.e.*, a delay in participation by any industry segment as isolated from the others produces a similar result.
- 2) Neither of the NANP Exhaust Study Review Team Input Assumptions sets (2 and 3) yield an appreciable extension of NANP exhaust from CMRS participation in 1KB Pooling, while the Lockheed Martin Input Assumption set predicts a benefit of over 20 years. *This IMG finds that Lockheed Martin should be asked to review their input assumptions. Lockheed Martin should report the results of this effort to the NANC in 1Q00 and annually afterwards until the data proves or disproves the validity of the assumptions, to the satisfaction of the NANC.*
- 3) The Lockheed Martin NANP Exhaust Model only permits segments beginning participation in 1KB Pooling in the years 2000, 2001, 2002 and 2003. *This IMG finds that Lockheed Martin should be requested to enhance the model to cover other years. If there is great difficulty in offering a choice of more than four years, an additional copy of the model should be modified to offer choices of the years 2004, 2005, 2010 and 2015. Then the two models together will cover the critical years.*

(1998) at ¶¶ 42, 53, and 136.

²⁴ Report of the NANP Exhaust Review Team, May 3, 1999, forwarded to the Commission by the NANC after its April 1999 meeting.

- 4) The Lockheed Martin NANP Exhaust Model only permits study of the implementation of 1KB Pooling in all NPAs. *This IMG finds that Lockheed Martin be requested to enhance the model to allow the user to specify, by NPA, where the likelihood of 1KB Pooling is to be applied and to yield the resultant impact on NANP exhaust.*
- 5) Despite the limited impact of advancing an industry segment's participation in pooling by 2-3 years on the overall exhaust of the NANP, there are impacts in terms of the number of NPAs required through 2005.

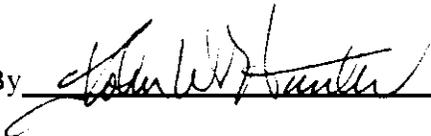
Based on the previous results of the NANP Exhaust Review Team and the findings of the IMG, USTA continues to believe there is a need for additional studies to be performed using the NANP Exhaust Model with realistic assumptions and data. Further, the Model itself needs to be examined for accuracy. These efforts should be undertaken so that in the end, both the NANPA and the industry would be together and there would be alignment and agreement on future results pertaining to NANP exhaust projections.

III. Conclusion

USTA requests that the Commission fully consider its reply comments in determining the issues raised in the Notice.

Respectfully submitted,

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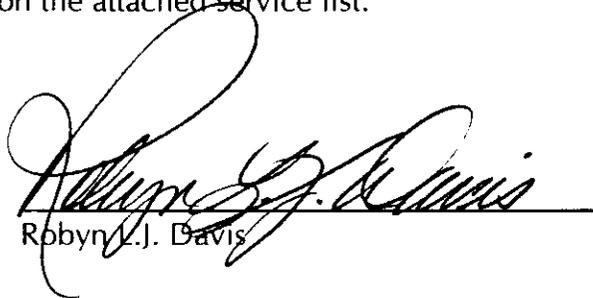
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CERTIFICATE OF SERVICE

I, Robyn L.J. Davis, do certify that on August 30, 1999 Reply Comments of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.



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