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

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

Reply Comments of MCI WorldCom, Inc.

Mary De Luca
Anne F. La Lena

Mary L. Brown
Henry G. Hultquist
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006
(202)887-2502

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EXECUTIVE SUMMARY

In these reply comments, MCI WorldCom urges the Commission to adopt a coherent, national strategy for number administration that clearly identifies goals and plans for their achievement. The Commission should: (1) ensure the continued availability of numbering resources for all service providers; (2) maintain competitively neutral number administration; (3) slow down the needlessly rapid exhaust of area codes and the numbering plan; and (4) plan now for the inevitable expansion of the numbering plan.

MCI WorldCom supports the phased deployment of thousands-block pooling according to a national plan. Such a deployment will efficiently produce a more rational number assignment practice than that used today. All carriers should be urged to prepare to support a national roll-out of pooling at the earliest date possible. Pooling deployment should not be conditioned on the completion of rate center consolidation. Block recovery should be limited to uncontaminated thousands blocks. Successful pooling implementation does not depend upon requirements in the T1S1.6 Technical Document. Neither CMRS providers nor any other service providers should be excluded from pooling when they are LNP-capable.

The Commission should require carriers to cooperate in limited unassigned number porting. Such porting can be done using existing systems and processes, and will yield benefits to competition and number conservation.

The Commission should not establish a policy that would make area code overlays the "preferred" form of relief. However, the Commission should not allow state

commission to adopt geographic splits that partition individual rate areas. Insofar as states adopt overlays, the Commission should maintain the existing requirement of ten-digit dialing.

Although state commissions have sought authority to control many aspects of number administration, the Commission should not significantly expand their authority. Uniform number administration cannot be sustained if individual state commissions can depart from national guidelines. Moreover, it is possible that state commissions and state legislatures may pursue goals that are in conflict with the Congressional mandate that this Commission encourage the flourishing of competition in all telecommunications markets. Competition requires that numbering resources be available to all service providers on a competitively neutral basis.

MCI WorldCom supports the consensus within the industry regarding the appropriate cost allocation mechanism for pooling.

The Commission should seek advice from the North American Numbering Council (NANC) on issues related to geographic portability. By severing the relationship between telephone number address and call rating, geographic portability could effect significant improvements in number use efficiency.

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Reply Comments of MCI WorldCom, Inc.

I. Introduction

There is no dispute that the Commission needs to undertake a substantial revision in existing number administration policies to avoid pre-mature exhaust of the North American Numbering Plan (NANP). In this docket, the Commission has the opportunity to adopt a coherent, national strategy for number administration that clearly identifies significant goals and the Commission's plan for their achievement. MCI WorldCom Inc (MCI WorldCom) submits that these goals must be to: (1) ensure the continued availability of numbering resources for all service providers; (2) maintain competitively neutral number administration; (3) slow down the needlessly rapid exhaust of area codes

and, by extension, the numbering plan; (4) plan now for the inevitable expansion of the numbering plan.

The initial round of comments shows that the industry is committed to implement thousand-block pooling according to a phased implementation schedule by Number Portability Administration Center (NPAC) region. MCI WorldCom fully supports such an approach to reduce the service footprint needs of new service providers, while continuing to ensure competitively neutral access to numbers.

A number of commenters also recommend that the Commission look to geographic portability as a means to provide greater efficiencies for number use in the future.[1] MCI WorldCom supports further investigation into geographic portability and the severance of rating intelligence from NPA-NXX as a long term means to improve numbering efficiencies. Such an approach may further extend the life of area codes and the numbering plan. In considering this option, the Commission should also examine the relative cost effectiveness of long-term numbering resource optimization measures when compared to expansion of the North American Numbering Plan (NANP).

MCI WorldCom is also in full agreement with those parties who recommend that the Commission establish a path now for the inevitable expansion of the numbering plan.[2] Early planning will reduce extraordinary costs associated with such expansion, by allowing equipment manufacturers to incorporate the requirements of the expanded plan into their products at the earliest reasonable date. This will permit service providers to prepare for expansion over time as part of ordinary network upgrades. MCI WorldCom,

[1] See e.g., Bell Atlantic Comments at 17 and Colorado PUC Comments at 2.
[2] See e.g., Burroughs Group Comments at 2.

therefore, recommends that the Commission seek advice from the NANC by a date certain on the manner in which the numbering plan should be expanded.

While industry members provided detailed proposals on implementation of pooling, a number of state commissions simply suggested that pooling implementation and other number administration decisions should be made at the state level.[3] While some decisions can and should be delegated to the states, the responsibility for national policy development must remain with the Commission. Most service providers operate in more than one state. It would be an unnecessary hardship for these service providers to adapt their systems and processes to idiosyncratic variations in state number administration. Indeed, the Commission has consistently recognized the benefits of a uniform system of number administration.

Recent events also demonstrate that the delegation of authority to state commissions can risk compromising the principles that the Commission has established for competitively neutral number administration. The Commission has delegated to the states the authority to oversee area code relief in order to ensure competitively neutral, timely, and efficient relief plans. In some cases, it has proven difficult for state commissions to adhere to these principles.[4] MCI WorldCom is concerned that broad delegations of authority to state commissions may risk allowing those commissions, or state legislatures, to place other goals ahead of those which Congress has mandated for this Commission; specifically, that it encourage the widespread development of competition in all telecommunications markets. Insofar as the Commission does delegate

[3] See e.g., New York Department of Public Service Comments (NY DPS) at 6-7, Massachusetts PUC Comments, Attachment A at 4-5 and Pennsylvania PUC at 10-11.

its authority to the state commissions, it must stand ready to withdraw that delegation if a state commission strays from the statutory mandate to encourage the flourishing of competition.

II. Timely Implementation of Pooling Will Not Occur in 2000 Without the Commission's National Oversight.

A. All Limited Liability Corporations (LLCs) Must Approve NPAC Pooling Software For Pooling to Occur Across the Country in 2000.

Pooling implementation necessitates full coordination and cooperation of all parties involved in numbering: code holders, pooling administrator, NPAC personnel and regulators. For example, one critical step towards pooling has been the work of the Local Number Portability Administration Working Group (LNPA WG) of the NANC which defined the scope of pooling with respect to the NPAC. Much work is left to do. The seven LLCs need to negotiate for the delivery and price of the NPAC software needed to support pooling.[5] Any schedule set forth by the Commission to implement pooling nationwide is dependent on the availability of this software in the nation's seven NPACs. The new software (Release 3.0 with EDR) will be a major advance over the rudimentary software (i.e., Release 1.4) now in limited use in the Illinois. All LLCs must vote to approve NPAC pooling software, and notify the NPAC administrator of their decisions so that NPAC modifications to accommodate thousand-block pooling.

At the request of the LLCs, the NPAC vendor proposed two software packages with different pricing: one based on a sixty-two week development cycle and one based

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[4] See e.g., *In the Matter of Emergency Joint Petition of ALTs, ELI, GST, MCI WorldCom and Winstar for Suspension of Phoenix Area Code Relief Plan or, in the Alternative, other Relief*, CC Docket No. 96-98 (filed April 1, 1999) and AT&T Comments (AT&T) at 66.

[5] Lockheed Martin's response to the LLC request to implement the LNP WG technical requirements produced two Statements Of Work (SOWs) for software Release 3.0: 1) SOW 15R3A which described a

on a forty-seven week development cycle. The LLCs now have the ability to vote on a longer or shorter implementation time. To date only one LLC, the Mid-Atlantic Carrier Acquisition Company, L.L.C. (MCAC), has approved the new software, and provided the notification to the NPAC administrator.[6] Therefore, the clock for the forty-seven week development cycle has begun and it is still possible to implement pooling in 2000.

The main reason why some LLC carrier members voted against proceeding to adopt pooling software now is a perceived lack of direction from the Commission on implementation and cost recovery issues. While MCI WorldCom considers the Commission's final decision a necessary and important part of national implementation, the majority of the carriers in MCAC carriers, voted to implement Release 3.0 so that the benefits of pooling can be realized. MCI WorldCom is concerned that some carriers may be using the lack of a resolution for cost allocation/cost recovery as a way to delay pooling implementation. The Commission has sent very clear signals that it supports pooling. Carriers know from Local Number Portability implementation that a track and true-up method for carrier payments to the vendor can be established to accommodate accurate and appropriate credits for overpayments as necessary.

In the meantime, the NPAC Administrator is implementing the pooling software in only the MCAC region. NPAC implementation is anticipated to be concluded by July 2000. Carrier testing may then begin for the next four months to six months. Pooling should be a reality in the Mid-Atlantic region as early as October 2000, and certainly by the end of 2000. For pooling to be deployed in other regions across the country at the

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62-week version and pricing; and, 2) SOW 15R3B, which described the pricing and terms for the 47-week version.

same time the other six LLCs must approve Release 3.0 now. The Commission should request information from all LLCs as to their plans to be able to support pooling in 2000 before an order is issued in this proceeding. Carriers in LLCs who voted against the NPAC pooling software must be made to realize that delaying tactics to prevent pooling will not prevail, but instead will only cost the industry, and ultimately consumers, more time and money to implement.

Pooling implementation is dependent on the regional NPACs' readiness. It is not a matter of first knowing which metropolitan areas will have pooling. Pooling from the NPAC perspective is not implemented on a per-city or area basis but on an per-NPAC basis, so the groundwork must be started now in each LLC region.

B. The Commission Must Set a National Schedule for the Initial Roll-Out of Pooling That is Not Pre-Conditioned on Rate Center Consolidation But Does Increase the Supply of Numbers To Meet the Demand for Numbers.

Many commenters propose a plan for the national deployment of pooling.[7] Most states seek to control many aspects of pooling implementation[8] while some states support the Commission developing the initial rollout schedule.[9] In general, carriers propose plans to phase-in pooling across the country with a national schedule The Commission must develop the initial rollout schedule because there needs to be a single decision maker providing a schedule to ensure that resources are used effectively and not overburdened. MCI WorldCom's proposal provides for the implementation of pools in

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[6] As of August 30, 1999 only one LCC (the Mid-Atlantic LLC) approved the pooling software. In most cases, a motion to approve or even consider the pooling software was defeated by individual carriers that are LLCs members.

[7] See e.g., AT&T at 42, BellSouth Comments (BellSouth) at 22 and Winstar Comments at 25.

[8] See e.g., Texas PUC Comments (PUCT) at 25, Maine PUC Comments (Maine PUC) at 22 and New Hampshire PUC Comments at 14.

[9] See e.g., Pennsylvania PUC Comments at 15 and California PUC Comments (CPUC) at 29.

two NPAs per month per NPAC region. To prioritize the NPA list in a fair and unbiased manner, we continue to recommend that the Commission request, from the states, a list containing the NPAs to be considered for pooling. The Commission would then conduct a lottery for each NPAC region to prioritize deployment. The initial roll out schedule should project implementation for at least the first nine to twelve months. There is no value-added by granting a state the authority to determine when and where to implement pooling during this phase. In addition, the Commission: 1) should create national rules that address contamination levels, required participation, the selection of the thousand-block administrator and cost recovery; and, 2) should require that pooling will be implemented in at least the candidate NPAs selected in the lottery. This leaves a limited, but important role for state commissions during the initial rollout.

MCI WorldCom recommends that the lottery be based on NPA areas, rather than the top one hundred MSAs for the following reasons: 1) NPA boundaries may extend past MSA boundaries; 2) MSAs may contain more than one NPA and implementation should be managed at an NPA level; 3) not all states that seek to implement pooling have a top-100 MSA, but do have LNP;[10] and, lastly, 4) LNP has been deployed past the 100 MSAs.

Once the phase-in period is completed, the Commission should delegate to the states, the ability to implement additional pools in NPAs, as those NPAs support LNP. We assume, however, that, once pools are created in a particular rate area, the NXXs in all subsequent NPAs will be assigned at the thousand-block level.[11] The objective is to

[10] Maine, for example, does not have one of the top one hundred MSAs. Yet Maine seeks to preserve its single area code throughout the state.

[11] Aside from the NXXs needed for non-LNP capable carriers. All carriers once LNP capable should be require to accept number assignments in thousand blocks.

phase out the practice of full NXX block assignment. The Commission never created this practice and it is, by no means, a "right" for a service provider. The practice of NXX block assignment was based on decades-old technology and created by a Bell System monopoly that was broken up years ago. The Commission has to take a leadership role and require number assignment practices to evolve as the market and technology evolves to become less dependent on legacy practices. The industry and the life expectancy of the NANP can no longer afford to maintain an out-dated infrastructure.

MCI WorldCom takes issue with one point made by a number of carriers.[12] We do not believe it is necessary to condition the creation of rate area pools on whether a state commission has reviewed and implemented rate center consolidation (RCC). The process of RCC may be lengthy and could substantially delay the initial creation of pooling in a particular NPA—causing the NPA to exhaust prematurely. There is no need to delay the creation of a pool while a state commission decides all issues associated with RCC. The Commission should expect that each state commission dealing with area code exhaust would have begun rate center consolidation investigations sometime over the next year.

We agree with AT&T that the benefits of pooling generally increase with RCC, but it is not required before some benefits can be realized.[13] Also, the creation of pools does not prevent the consolidation of rate centers in the future. If RCC is implemented after pools are created, the administrator simply combines the pools. We do agree with the notion that RCC enhances the benefits of thousand-block pooling.

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[12] See e.g., BellSouth at 21, GTE Comments at 43, and Sprint Comments at 21-22.

[13] AT&T at 35 (stating that if RCC can be accomplished before or simultaneously with pooling, the number resource optimization benefits of pooling generally will be enhanced.)

By reducing the number of rate areas, and thus enlarging those that remain, RCC improves telephone number utilization within existing NXXs. It also reduces demand for new NXXs, particularly those otherwise required for "footprint."

Since LNP allows movement of telephone numbers from one switch to another, telephone numbers associated with a wire center area no longer are confined to it. That is, numbers can be shifted from one switch to another, for end-users located within the same rate area, and no longer must remain stranded where unneeded.

By enlarging a given rate area, RCC thus creates a larger pool of switches in a carrier's network that can share telephone numbers from a given group of NXXs. This improves the potential to use otherwise stranded numbers and thus improves the carrier's number utilization. This benefit of RCC is also available, of course, to carriers with multiple switches in a consolidated rate area. A carrier with a single switch serving multiple rate areas could derive a similar benefit; numbers from NXXs in the switch serving formerly separate rate areas could now be shared, thus avoiding stranded telephone numbers in a pre-consolidation rate area.

Not only does RCC reduce NXX demand by making possible improved number utilization, it reduces NXX demand by lowering the need for "footprint" NXX assignments. That is, since RCC consolidates existing rate areas, there are fewer rate areas after RCC is done. Consequently, there is a reduced need to NXXs to establish "footprint" in a given geographic area since there are fewer rate areas to represent.

C. The Industry Agrees that No Contamination Level is the Most Effective Method for Pooling.

Initial comments show near unanimous industry support for recovering only clean thousands blocks for pooling.[14] MCI WorldCom agrees with the many commenters who oppose any contamination level greater than zero. No commenter has suggested any analysis that would identify a particular contamination level as appropriate. Any contamination level greater than zero, needlessly increases the costs and risks of pooling implementation. MCI WorldCom believes that numbers that would otherwise be stranded in contaminated blocks, may be recovered in a more cost-effective manner with Unassigned Number Porting (UNP) than by requiring reclamation of contaminated blocks.

Reclamation of contaminated blocks adds an unnecessary and labor-intensive step to pooling. If a contaminated block is donated to a pool, the donor must then, in turn, port back to itself the numbers within the block that have already been assigned to its own customers. This use of LNP for customers who have not sought to change service providers would needlessly impose upon these customers potential problems when the service order activity within the carrier occurs.[15] In addition, the industry incurs a cost associated with porting the number, while not increasing the size of the pool. Despite the fact that LNP is a well-developed process, such widespread intra-service provider porting due to contaminated block donations could cause unforeseen problems that affect these customers. In addition, these "intra-service provider" ports will require largely manual

[14] See e.g., BellSouth at 8, note 23, AT&T at 44.
[15] These customers may still face downtime when the port actually occurs. This is different for when a customer ports his number when changing his service provider in that the anticipated downtime is coordinated with switching a customer's loops from the old carrier to the new carrier.

and costly processes. Any incremental benefits from the pooling of contaminated blocks cannot justify the associated increases in cost and risk to service quality.

III. Network Development to Implement T1S1.6 Technical Requirements Were Already Put In place to Support LNP and Need Not Delay Pooling Implementation.

The Commission should not think that the successful implementation of pooling is dependent upon the "requirements" outlined in the T1S1.6 Technical Requirements No. 4.[16] This report describes additional switch call processing features introduced with pooling when compared to LNP. However, the Commission may not realize that many of the changes already made to the network for LNP will support pooling.[17] If the Commission requires pooling in areas that are already LNP-capable, as recommended by the majority of commenters, these requirements become a trivial event in the timeline of pooling implementation. In fact, upon closer review of the T1S1.6 document, it is clear that the "Requirements" are nothing more than refinements already made to switches (and supporting databases and signaling network) to support number portability.[18] The T1S1.6 document addresses the following call processing capabilities:

- Default Routing
- "Reserved" and "Port-Out" Directory Numbers and Cause Code 26

[16] *Technical Requirements No. 4 July 1999, Thousand Block Number Pooling Using Number Portability, prepared by T1S1.6 Working Group on Number Portability*, Committee T1- Telecommunications, Alliance for Telecommunications Industry Solutions (ATIS) (T1S1.6 document)

[17] Changes will be required by carriers to support the efficient data representation form (EDR) of information broadcast by the NPAC with pooling if they choose to receive the data in that format.

[18] In its document, T1S1.6 separates the switch pooling features into "requirements" and "conditional requirements." It defines "requirements" as a "feature or function that is necessary to satisfy the needs of a typical service provider. Failure to meet a requirement may cause application restrictions, result in improper functioning of the product, or hinder operations." A conditional requirement, on the other hand, is a feature or function that is needed by some but not all service providers and as such is left for an individual service provider to choose.) (See T1S1.6 document at Section 4.)

- SS7 Generic Address Parameter (GAP)
- Number Portability Global Title Translation (NP GTT) and Number Portability Database (NPDB)
- Feature Interaction

MCI WorldCom addresses each of these issues below to show that there is no need to wait for their implementation before pooling can be supported nationwide. There is no need for the Commission to even consider this document as being in the critical path of its decision to adopt a national rollout for pooling.

It is important to note that the number portability technical references are listed as "Network Prerequisites for Number Pooling."[19] Hence, any carrier that is LNP-capable can support pooling. For example, when explaining how to handle default routing,[20] T1S1.6 indicates that:

> *Default routing to the code holder switch for number pooling is consistent with the default routing procedures described for number portability in Technical Requirements for Number Portability—Switching Systems.* (T1S1.6 document, Section 4.1.1 – Default Routing)

There is no need for the Commission to adopt additional technical requirements described in this document.

Another section of the T1S1.6 document describes additional procedures for the switch to decide whether a call being processed at the terminating switch should receive a non-working number announcement or receive the LNP misrouted call announcement. In other words, the requirements allow a carrier to provision ported-out numbers differently from pooled numbers so that a different announcement can be provided for the calling

[19] T1S1.6 document at Section 2.1.
[20] Default Routing is the term used to describe the process whereby the call is routed to the home switch after a database query indicates that the number dialed for this call is not ported or pooled.

party, and facilitate the switch creating maintenance action for the ported-out case. The only result may be the calling party hears to one type of announcement or another. No call processing to assigned, working numbers will be affected

MCI WorldCom believes that carriers should be free to individually implement these enhancements as desired. The benefits realized with early implementation of pooling far outweigh waiting for switch changes to handle of call treatments for pooled and ported calls.

The T1S1.6 document also indicates that pooling may or may not impact the LNP routing databases or SS7 message relay elements, depending on each vendor's design. Hence, there is no real requirement here, only that the equipment vendor review their design to support individual number treatment vs. range number treatment if that capability is deployed. MCI WorldCom urges to Commission to consult with the industry's equipment vendors (e.g., Nortel, Lucent) to determine if their equipment cannot support pooling in 2000.[21]

With respect to feature interactions, the T1S1.6 document says that the switch shall allow the assignment of any directory number (DN) served by the switch in the same intra-switch multi-DN- group. This means that the switch should allow a business customer to grow the quantity of numbers associated with their service without regard to whether the number is native, ported, or pooled. The interaction statement in the T1S1.6 document is no different than that expected of the switch to support LNP and thus is seen as a restatement for clarity purposes.

[21] Two other "requirements" in the T1S1.6 document are the same for porting. (See T1S1.6 document, Section 4.2, REQ-01200 and REQ-01300.

IV. There is No Basis for Excluding CMRS from Pooling When They Are Technically Capable.

The maximum success of pooling requires the inclusion of all carriers. Pooling success also depends on how quickly and uniformly it is implemented. No basis exists for either excluding CMRS providers from pooling once they are LNP-capable, or for allowing pooling to be implemented on a laissez faire basis either by states or carriers. For pooling to succeed in extending the NANP and making numbers available for consumer use the Commission must mandate pooling implementation nationally and must include CMRS carriers once they are LNP-capable.

All available data show that CMRS participation will contribute to extending NANP life. While industry segments may disagree with some dates in the NANPA exhaust study, that study, as well as recent research by the Colorado Numbering Task Force, underscore the essential nature of all code-holders', including CMRS providers, participation in pooling. All code holders in Colorado participated in the study, which showed that for both 1997 and 1998, cellular and PCS providers had an average utilization rate of fifty-eight percent. "As of Jan. 1, 1999, CMRS providers have been assigned 349 NXX codes in the state of Colorado. In actuality, the number of uncontaminated thousand blocks (using a contamination rate of ten percent) as of January 1, 1999 was over 1,300. This translates to over 1,300,000 numbers that could potentially be available for pooling."[22]

Wireless proponents point to their high growth rates that ostensibly drive their need for large number blocks. Regardless of carrier-type or growth rate, all carriers should get the numbers they need for consumers to use. That the high growth rate of

wireless will slow down is a reasonable expectation. With LNP, number utilization rates will change since number aging requirements will be reduced when customers change wireless providers. In addition, the wireless carrier demand for numbers will also decrease because at least half of a wireless carrier's new customers will now be able to port their existing wireless number.[23] LNP will aid with customer churn. With LNP, large amounts of numbers will not be suspended by customer churn. Instead, customers will enjoy carrier choice yet retain the ease and convenience of keeping the same telephone number. The "need" for massive numbering blocks will evaporate.

Additionally, CTIA misinterprets Commission action when it says the Commission should adhere to its previous determination to reject any efforts to require CMRS participation in number pooling.[24] The Commission in no way stated or implied in its Pennsylvania Order that CMRS providers are not required to participate in pooling.[25] On the contrary, the Commission put the wireless industry on notice that it could well have to implement LNP earlier to facilitate NRO efforts such as pooling.

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[22] Colorado PUC Comments at 7.

[23] By the CMRS industry's own admission, half of the wireless customers of any one CMRS provider is switching wireless carriers. See, *International Data Corp., Massive Telecom Customer Churn Predicted in IDC Reports*, Dec. 10, 1998 (stating that in 1997, the churn rate in the cellular and personal communications service markets was 27.3% and is expected to soar to 51.9% by 2002.)

[24] CTIA Comments at 29.

[25] See *Petition for Declaratory Ruling and Request for Expedited Action on the July 15,19997 Order of the Pennsylvania Public Utilities Commission Regarding Area Codes 412, 610, 215, and 717, Memorandum Opinion and Order and Order on Reconsideration*, CC Docket No. 96-98, NSD File No. L-97-42. (September 28, 1998)

V. The Commission Should Dismiss Suggestions that Carriers with High Utilization Rates Should be Excused From Pooling

Pooling must be viewed as a fundamental change in the assignment practices that apply to all LNP-capable carriers. High utilization rates should not excuse carriers from pooling.

CTIA's claim that number pooling is inappropriate for CMRS providers is baseless. Its argument that since the wireless industry has among the highest fill rates and that, therefore, number pooling is inefficient for wireless providers, misses the point. Number assignment in blocks of 10,000 numbers is no longer cost-effective or beneficial for consumers as area code exhaust exacts an expensive toll on them and is hastened by 10,000 -block assignment.

We remind the Commission that "fill rate" today is not the issue. The issue is making numbers available now and in the future for the use of consumers in an efficient, beneficial and minimally disruptive manner. Number pooling is a forward-looking response to an acute problem of area code exhaust.

Further, any "opt-out" provision, either on a carrier's part, as SBC and others urge, or on a State's part, would greatly diminish the effectiveness of pooling.[26] SBC would have carriers be excused from pooling if they met a seventy percent usage threshold, to be phased in over three years. If carriers fail to meet an initial fifty-five percent utilization rate, they would be "punished" and be made to implement pooling. In the meanwhile, large blocks of numbers would be eaten up by inefficient assignment continuing to speed area code exhaust and ultimately premature NANP exhaust.

[26] SBC Comments (SBC) at 24.

Utilization rates may yield some information about a service provider's past success in using telephone numbers. But no one has suggested why such past success should be considered a reliable indicator of usage in the next block of numbers assigned. Moreover, SBC fails to discuss how utilization would be defined and measured on an ongoing basis by either the NANP or the Commission or what prescriptive action it would recommend should a fill rate drop below what it considers a magic number. SBC also fails to state how their plan remains competitively neutral for the scenario where a carrier is below the pooling-eligible threshold, but later raises their utilization (thus becomes pooling-ineligible), yet has already sunk capital to pool. As a concept telephone number utilization is easily understandable, but it is unmanageable, unenforceable and may do nothing to stem area code exhaust.

VI. UNP is a Good Short-Term Solution to Advance Efficient Number Use.

Initial comments show that support is building for low-cost, near-term, pro-competitive uses of UNP that may also improve number use efficiency.[27] However, several parties continue to make specious arguments against UNP and to lump all phases of UNP together in order to criticize it. These criticisms are without merit.

AT&T acknowledges that UNP has potential benefits for both competition and number conservation.[28] Yet AT&T opposes implementation of UNP at this time based on the mistaken belief that UNP necessarily would require stringent oversight to ensure competitive neutrality. According to AT&T, rules are needed to prevent carriers from

[27] See e.g., Maine PUC at 23.
[28] See e.g., AT&T 41-42.

repeatedly going to a single source to obtain numbering resources when there are multiple potential sources. AT&T also believes that inventory tracking mechanisms may also require development. While these criticisms might apply to the latter phases of UNP implementation, they do not apply to what MCI WorldCom has described as Phase 1 of UNP.[29] In Phase 1, carriers would use the existing LSR and LNP processes to port unassigned numbers in response to specific customer requests or to establish an extremely limited service footprint. Carriers would not be permitted to use UNP as a way to build up an inventory. This would result in fairly limited volumes of numbers actually being ported. Given such limited volumes, AT&T's concerns are misplaced.

According to BellSouth, various industry groups have concluded that UNP is not a number optimization technique and will not extend the life of the NANP.[30] Some carriers, including MCI WorldCom have consistently disagreed with the conclusions of the Number Resource Optimization (NRO) Working Group of NANC. It is clear that UNP can be used to allow greater access to numbers that might otherwise be stranded in service provider inventories or cause a customer to seek a provider based on which carrier has the number. UNP can also provide numbers to a carrier needing a rate area presence for those situations where a carrier has a limited number requirement to achieve that rate area footprint. Indeed, UNP may be the most cost-effective, near-term measure to improve the efficiency of number use within specific, contaminated thousands blocks.

[29] See MCI WorldCom Comments at 17 for its proposed Phase 1 UNP Implementation.
[30] See BellSouth at 9.

Nextel is concerned that UNP may entail significant costs and might require a substantial amount of time before it can be implemented.[31] MCI WorldCom agrees that the latter phases of UNP would entail additional costs and time. Phase 1 does not entail such costs or time. Since Phase 1 relies on existing inter-carrier processes, it can be implemented in very short order with virtually no incremental costs. However, after pooling is implemented it is unknown whether subsequent phases of UNP are necessary.

Ameritech substantially exaggerates the extent of porting that would occur in Phase 1 of UNP.[32] Ameritech raises the specter of number "raids" to obtain certain particularly desirable numbers. According to Ameritech, UNP would cause carriers to lose control of their inventories and to obtain additional resources. There is no reason to believe that any of this would happen with the limited uses of UNP that MCI WorldCom has proposed for Phase 1. Moreover, Ameritech forgets one main point--- numbers are a shared, limited resource. Implicit in the Commission's own rules and the Act is the principle that no carrier has a legal right to maintain a spare inventory that exceeds its immediate needs when another carrier has a limited inventory that prevents it from meetings its needs and the requests of customers. The Act affords equal access to numbers—it is the out-dated, decades-old administration infrastructure that does not. Numbers are for the ultimate use of the public and should not be allowed to raise a barrier to competition.

In UNP Phase 1, a service provider would request numbers within a specific NPA-NXX either in response to a customer request, or to establish an extremely limited service footprint. Neither of these uses could result in "number raids." In the first

[31] See Nextel Comments at 18.
[32] See Ameritech Comments at 47.

scenario, customers, not carriers, would be the original source of the request. Ameritech's argument ignores the fact that once the customer no longer needed the number, it would "snap back" to the original carrier. In the second scenario, the carrier would have to take whatever numbers it could get to establish footprint in a particular rate center. Indeed, the carrier receiving the request could make the choice of numbers. Thus, neither scenario would allow the "raids" that Ameritech seems to fear.

Ameritech raises another argument that is without merit. According to Ameritech, section 251 of the Act was never intended to allow access to resources assigned to another carrier.[33] This is plainly wrong with respect to LNP, which was designed precisely to accomplish this end. Moreover, section 251 vests broad authority in the Commission to establish pro-competitive number administration policies. The Commission must ensure that numbers do not constitute an unnecessary barrier to competition. UNP will improve the ability of consumers to obtain the number they want from the carrier of their choice. Section 251 cannot be said to bar such a pro-competitive result.

VII. Area Code Overlays Should Not be Made Preferred Method of Relief.

A number of parties appear to have the misapprehension that the Commission can fix the current numbering "crisis" merely by making area code overlays the "preferred" form of area code relief.[34] In our initial comments, MCI WorldCom demonstrated that geographic splits and overlays each have costs and benefits.[35] The Commission should not place its thumb on the scale to favor overlays. MCI WorldCom does agree there are

[33] Id at 48.
[34] See e.g., BellSouth at 18.

circumstances where a split is demonstrably inefficient. In such circumstances, states should not be allowed to order a non-standard and wasteful form of area code relief. For example, the industry appears to be in complete agreement that geographic splits that divide rate areas are an inefficient and potentially discriminatory form of relief.

State commissions continue to seek relief from the requirement of 10-digit dialing with area code overlays.[36] The Commission should not encourage dialing disparities that create an artificial competitive advantage in favor of those carriers that have numbering resources in the preexisting area code. Any new entrant that comes to the market after the overlay will obtain most of its numbers in the overlay code. If those numbers carry a dialing disparity (i.e., most calls from them will be to the other NPA and will therefore require 10-digit dialing, while most calls from numbers in the other NPA will only require 7-digit dialing), it is inevitable that some customers will be deterred from taking service from the new entrant. There can be no justification for this barrier to competition. The fact that LNP allows new entrants to compete for part of the market without this dialing disparity is irrelevant. No market space should be fenced off by anti-competitive number administration policies.

Some state commissions argue that the Commission does not have jurisdiction to mandate 10-digit dialing for intrastate calls.[37] This argument is without merit. In AT&T v. Iowa Utilities Board, the Supreme Court explicitly rejected the argument that the Commission's authority is limited to purely interstate and foreign matters.[38] The Court

[35] See MCI WorldCom Comments at 61.
[36] See e.g., Ohio PUC Comments at 26, TPUC at 21 and CPUC at 24.
[37] See NY DPS at 18.
[38] 119 S. Ct. 721 (1999)

held that the "grant in section 201(b) means what it says: The FCC has rulemaking authority to carry out the 'provisions of the Act.'"[39] Section 251(e) explicitly vests in this Commission all authority over numbering administration and those portions of the NANP that pertain to the United States. Section 251(b)(2) plainly imposes a duty on all LECs to provide dialing parity. Either section alone would provide sufficient authority for the commission to mandate 10-digit dialing for any class of calls.

VIII. Rules, Guidelines, and Enforcement

Initial comments evince a remarkable degree of confusion and disagreement about the relationship between rules, guidelines, and enforcement. Some parties recommend that almost all number administration functions be governed by guidelines. Others opine that virtually all guidelines should be replaced by rules. Still others make the remarkable suggestion that the Commission could have the best of both worlds by purporting to establish a rule that would effectively delegate rulemaking authority to the voluntary industry guideline process. Recommendations for enforcement are no less muddled. State commissions think that they should have authority to enforce either Commission rules or industry guidelines. Others recommend that NANPA, the Common Carrier Bureau, or the Wireless Bureau should exercise enforcement authority.

MCI WorldCom suggests that a few simple principles can help the Commission find its way through this thicket of recommendations. First, the principles that the Commission has established for numbering administration should remain the

[39] *Id.* at 730.

Commission's primary benchmark.[40] If any entity, including carriers, the NANPA, or state commissions take actions that are inconsistent with those principles, the Commission must be prepared to intervene. Second, delegations of authority or function should be accompanied by clear statements of the extent to which that delegation includes enforcement authority. Third, as a neutral third-party administrator, NANPA should not be expected to make any judgments regarding controversial policy issues, but should be expected to adhere to the guidelines under which it operates.

MCI WorldCom recommends that the Commission authorize states to notify the NANPA when the state is concerned that a service provider may have been issued, or is holding numbers in violation of the industry guidelines. If the state can articulate a reasonable basis for its belief, NANPA should investigate further. If a violation is found, NANPA should reclaim the numbers. If a dispute arises between NANPA and the carrier, the reclamation process should be suspended and the dispute brought to the NANC in order that it can make a recommendation to the Common Carrier or Wireless Bureau.

NANC should also function as a filter to ensure that changes in the guidelines are always consistent with the Commission's numbering administration principles. The Commission should charge NANC with providing the Commission with notice of any changes in the guidelines that are potentially inconsistent with those principles.

State commissions should not be authorized to enforce industry guidelines or to replace those guidelines with state-specific rules. A uniform, national number administration cannot survive fifty or more different rulemaking or enforcement processes. State enforcement should be limited to enforcement of state decisions or rules

[40] 47 CFR § 52.9 (a)

properly adopted as an exercise of delegated authority. The Commission must provide speedy relief for any party that believes that state rules or decisions violate the Commission's principles for numbering administration.

States should specifically be denied authority to audit numbering resources. The Commission itself has plenary authority to conduct audits. The NANC will shortly recommend a framework for third-party audits. States should rely on the results of these audits. Otherwise, carriers might become subject to simultaneous national and state audits. There is no justification for such duplicative investigations. Moreover, state-specific audits are unlikely to yield reliable information in an industry in which most service providers operate in multiple states.

IX. Cost Recovery

The Commission should note the overwhelming agreement within the industry regarding the appropriate cost allocation mechanism, assessment on all carriers, for thousand-block pooling. However, MCI WorldCom takes exception to SBC's proposal that all costs associated with thousand-block pooling be recoverable by individual carriers. MCI WorldCom must also correct the record regarding a MediaOne Group ("MediaOne") statement on the status of pooling.

MediaOne stated that "the industry has paid for pooling in the Number Portability Administration Center ("NPAC") software which is scheduled to be deployed on or before October 1999."[41] The statement is in error. First, the industry has not paid for

[41] See MediaOne Group Comments at 22, note 43.

pooling. Second, pooling, as in national pooling as developed by the LNPA WG, is not scheduled to be deployed by October 1999.

What has been implemented in only one region, and in fact, in only one state, is a type of pooling, via NPAC software Release 1.4, which is vastly different than what the LNPA WG developed for national pooling. Release 1.4 type of pooling has been implemented by the LLC supporting the mid-west region. It is deployed only in Illinois.

Further, only a handful of carriers is paying for Release 1.4 pooling implementation through charges assessed on recipients of blocks of numbers and through other fees assessed on carriers in that state. Earlier in these reply comments MCI WorldCom alerted the Commission that only one LLC out of seven U.S. LLCs, the Mid-Atlantic LLC, approved Release 3.0, the national pooling release developed by the LNPA WG. It is expected to be implemented by July 2000 at which time testing can begin by carriers but only in the mid-Atlantic states. Other LLCs must approve Release 3.0 before it will be implemented by the LNP vendor. At the deadline for these reply comments, the other LLCs had taken some action regarding Release 3.0 but had failed to achieve approval for the national pooling implementation activity.

MCI WorldCom must also oppose part of SBC's view of cost recovery for pooling implementation. SBC agrees with the Commission's tentative conclusions regarding the categories of costs to be recovered, but wants full recovery of apparently all costs.[42] SBC is not content to recover carrier-specific costs directly incurred from pooling implementation. SBC would include all and any costs indirectly associated with pooling. Such an approach would open the door to recovery of costs without a direct

[42] See SBC at 67, 87-88.

relationship to pooling. Such all-encompassing inclusion would promote gold-plating and the assignment of costs for network upgrades and operations that have little if anything to do substantively with pooling. MCI WorldCom opposes allowing the inclusion of costs that are not either shared costs resulting from pooling or that are carrier-specific costs directly incurred from pooling.

X. Conclusion

MCI WorldCom urges the Commission to adopt the pro-competitive number conservation measures described in MCI WorldCom's initial comments and in these reply comments.

Respectfully submitted,
MCI WorldCom, Inc.

Mary L. Brown
Henry G. Hultquist
Anne La Lena
Mary De Luca
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006
(202)887-2502

August 30, 1999

CERTIFICATE OF SERVICE

I, Vivian Lee, do hereby certify that copies of the foregoing Reply Comments of MCIWorldCom, Inc. were sent via first class mail, postage paid, to the following on the 30th day of August, 1999.

Chairman William E. Kennard*
Federal Communications Commission
The Portals
445 12th Street, S.W., 8th Floor
Washington, DC 20554

Commissioner Harold Furchtgott-Roth*
Federal Communications Commission
The Portals
445 12th Street, S.W., 8th Floor
Washington, DC 20554

Commissioner Michael Powell*
Federal Communications Commission
The Portals
445 12th Street, S.W., 8th Floor
Washington, DC 20554

Commissioner Gloria Tristani*
Federal Communications Commission
The Portals
445 12th Street, S.W., 8th Floor
Washington, DC 20554

Commissioner Susan P. Ness
Federal Communications Commission
The Portals
445 12th Street, S.W., 8th Floor
Washington, DC 20554

Tom Power*
Federal Communications Commission
The Portals
445 12th Street, S.W., 8th Floor
Washington, DC 20554

Linda Kinney*
Federal Communications Commission
The Portals
445 12th Street, S.W., 8th Floor
Washington, DC 20554

Sarah Whitesell*
Federal Communications Commission
The Portals
445 12th Street, S.W., 8th Floor
Washington, DC 20554

Kyle Dixon*
Federal Communications Commission
The Portals
445 12th Street, S.W., 8th Floor
Washington, DC 20554

Kevin Martin*
Federal Communications Commission
The Portals
445 12th Street, S.W., 8th Floor
Washington, DC 20554

Kathy Brown*
Chief of Staff
Federal Communications Commission
The Portals
445 12th Street, S.W., 8th Floor
Washington, DC 20554

Christopher Wright*
General Counsel
Federal Communications Commission
445 12th Street, S.W., 8th Floor
Washington, DC 20554

Larry Strickling*
Chief, Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Yog Varma*
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Jordan Goldstein*
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Anna Gomez*
Chief, Network Services
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Al McCloud *
Network Services Division
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Kris Monteith*
Competitive Pricing
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Blaise Scinto*
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Jared Carlson*
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Jeannie Grimes*
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Robert Atkinson*
Federal Communications Commission
The Portals
445 12th Street, S.W., 5th Floor
Washington, DC 20554

Diane Griffin Harmon*
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Tejal Mehta*
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

International Transcription Services*
1231 20th Street, N.W.
Washington, DC 20036

Teresa K. Gaugler
Jane Kunka
Qwest Communications Corporation
4250 North Fairfax Drive
Arlington, VA 22203

Michael F. Altschul
Randall S. Coleman
Lolita D. Smith
Cellular Telecommunications Industry Assn
1250 Connecticut Avenue, NW, Suite 800
Washington, DC 20036

Russell M. Blau
Michael R. Romano
Jeanne W. Stockman
Attorneys for RCN Telecom Services, Inc.
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007

Alfred G. Richter, Jr.
Roger K. Toppins
SBC Communications, Inc.
One Bell Plaza, Room 3022
Dallas, TX 75202

Brian Conboy
Thomas Jones
Attorneys for Time Warner Telecom
Willkie Farr & Gallagher
1155 21st Street, NW
Washington, DC 20036

Judith St. Ledger-Roty
Todd D. Daubert
Attorneys for Paging Network, Inc.
Kelley Drye & Warren, LLP
1200 19th Street, NW, Suite 500
Washington, DC 20036

Leonard J. Kennedy
Laura H. Phillips
Attorneys for Nextel Communications, Inc.
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Ave, NW, Suite 800
Washington, DC 20036

Thomas S. Hunter
Melissa Caro
Texas Office of Public Utility Counsel
1701 N. Congress Avenue, Suite 9-180
Austin, TX 78701

Mary A.Keeney
Assistant Attorney General
Natural Resources Division
P.O. Box 12548, Capitol Station
Austin, TX 78711

The Honorable Joe A. Garcia
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

The Honorable J. Terry Deason
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

The Honorable Susan F. Clark
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahasse, FL 32399

The Honorable Julia L. Johnson
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahasse, FL 32399

The Honorable E. Leon Jacobs
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Cynthia B. Miller
Public Service Commission of Florida
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Larry A. Blosser
Kernal Hawa
Attorneys for Connect Communications Corp.
Swidler Berlin Shereff Friedman, LlP
3000 K Street, NW, Suite 300
Washington, DC 20007

William Irby
Division of Communications
Virginia State Corporation Commission
Tyler Building
1300 E. Main Street
Richmond, VA 23219

John M. Goodman
Attorney for Bell Atlantic
1300 I Street, N.W., Suite 400 West
Washington, DC 20005

Joe H. Cheskis, Counsel for
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101

Mary McDermott
Robert L. Hoggarth
Personal Communications Industry Assn.
500 Montgomery Street, Suite 700
Alexandria, VA 22314

John F. Raposa
GTE Service Corporation
600 Hidden Ridge, HQE03J27
P.O. Box 152092
Irving, TX 75015

The Honorable Thomas L. Welch
Maine Public Utilities Commission
242 State Street
18 House Station
Augusta, ME 04333

The Honorable William Nugent
Maine Public Utilities Commission
242 State Street
18 House Station
Augusta, ME 04333

The Honorable Stephen L.Diamond
Maine Public Utilities Commission
242 State Street
18 House Station
Augusta, ME 04333

Trina M. Bragdon
Maine Public Utilities Commission
242 State Street
State House Station #18
Augusta, ME 04333

John F. Farmer, Jr.
Attorney for the
New Jersey Board of Public Utilities
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, NJ 07101

L. Marie Guillory
Jill Canfield
National Telephone Cooperative Association
4121 Wilson Blvd, 10th Floor
Arlington, VA 22203

Daniel M. Waggoner
Robert S. Tanner
Jane Whang
Davis Wright Tremaine LLP
1155 Connecticut Ave, NW, Suite 700
Washington, DC 20036

Delia Reid Saba
Christopher J. Wilson
Attorneys for Cincinnati Bell Telephone Co.
201 E. Fourth Street
Cincinnati, OH 45202

Gregory J. Doyle
Minnesota Department of Public Service
121 7th Place East, Suite 350
St. Paul, MN 55101

Mark C. Rosenblum
Roy E. Hoffinger
James H. Bolin, Jr.
AT&T Corp.
295 North Maple Avenue
Basking Ridge, NJ 07920

Lynda L. Dorr
Public Service Commission of Wisconsin
610 North Whitney Way
Madison, WI 53707

Carl K. Oshiro
Attorney for
Small Business Alliance for Fair
Utility Regulation
100 First Street, Suite 2540
San Francisco, CA 94105

James Bradford Ramsay
NARUC Assistant General Counsel
NARUC
1100 Pennsylvania Avenue, NW, Suite 603
Washington, DC 20044

Robert H. Bennink, Jr.
Erin K. Duffy
North Carolina Utilities Commission
430 N. Salisbury Street
Raleigh, NC 27603

The Honorable Richard A. Bilas
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

The Honorable Henry M. Duque
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

The Honorable Joel Z. Hyatt
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

The Honorable Josiah Neeper
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

The Honorable Carl W. Wood
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Helen M. Mickiewicz
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

M. Robert Sutherland
Theodore R. Kingsley
BellSouth Corporation
1155 Peachtree Street, NE, Suite 1700
Atlanta, GA 30309

H. Gilbert Miller
Mitretek Systems Inc.
Center for Telecommunications
and Advanced Technology
7525 Colshire Drive
McLean, VA 22102

Richard L. Jones
c/o Loves Park 9-1-1
540 Loves Park Drive
Loves Park, IL 61111

Susan M. Edi
Richard A. Karre
Tina S. Pyle
MediaOne Group, Inc.
1919 Pennsylvania Ave, NW, Suite 610
Washington, DC 20006

Jonathan E. Canis
Enrico Soriano
Attorneys for
voiceStream Wireless Corporation
1200 19th Street, NW, 5th Floor
Washington, DC 20036

Karlyn D. Stanley
Attorney for Centennial Cellular Corp.
Cole Raywid & Braverman, LLP
1919 Pennsylvania Ave, NW, Suite 200
Washington, DC 20006

Mark J. Burzych
Attorney for Thumb Cellular
Foster Swift Collins & Smith, PC
313 South Washington Square
Lansing, MI 48933

Susan W. Smith
CenturyTel Wireless, Inc.
3505 Summerhill Road
No. 4 Summer Place
Texarkana, TX 75501

Kenneth E. Hardman
Attorney for Trillum Cellular Corp.
Moir & Hardman
1828 L Street, NW, Suite 901
Washington, DC 20036

The Honorable Glen Arthur
State of Connecticut
Department of Public Utility Control
10 Franklin Square
New Britain, CT 06051

The Honorable John W. Betkoski
State of Connecticut
Department of Public Utility Control
10 Franklin Square
New Britain, CT 06051

The Honorable Linda Kelly Arnold
State of Connecticut
Department of Public Utility Control
10 Franklin Square
New Britain, CT 06051

The Honorable Jack R. Goldberg
State of Connecticut
Department of Public Utility Control
10 Franklin Square
New Britain, CT 06051

The Honorable Donald W. Downers
State of Connecticut
Department of Public Utility Control
10 Franklin Square
New Britain, CT 06051

The Honorable James Connelly
Dept. Of Telecommunications & Energy
One South Station, 2nd Floor
Boston, MA 02110

The Honorable Janet Gail Besser
Dept. Of Telecommunications & Energy
One South Station, 2nd Floor
Boston, MA 02110

The Honorable Paul Vasington
Dept. Of Telecommunications & Energy
One South Station, 2nd Floor
Boston, MA 02110

The Honorable Eugene Sullivan
Dept. Of Telecommunications & Energy
One South Station, 2nd Floor
Boston, MA 02110

The Honorable W. Robert Keating
Dept. Of Telecommunications & Energy
One South Station, 2nd Floor
Boston, MA 02110

Karlen J. Reed
Dept. Of Telecommunications & Energy
One South Station, 2nd Floor
Boston, MA 02110

James S. Blaszak
Attorney for The Ad Hoc
Telecommunications Users Committee
Levine, Blaszak, Block & Boothby, LLP
2001 L Street, NW, Suite 900
Washington, DC 20036

Jonathan Chambers
Sprint PCS
1801 K Street, NW, Suite M112
Washington, DC 20006

Pamela J. Riley
David A. Gross
AirTouch Communications, Inc.
1818 N Street, NW, Suite 800
Washington, DC 20036

Werner K. Hartenberger
J.G. Harrington
Attorneys for Cox Communications, Inc.
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Avenue, NW
Suite 800
Washington, DC 20036

David E. Screven
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

John McHugh
Stuart Polikoff
OPASTCO
21 Dupont Circle NW, Suite 700
Washington, DC 20036

Lawrence G. Malone
New York Department of Public Service
Three Empire State Plaza
Albany, NY 12223

Larry A. Peck
Counsel for Ameritech
2000 West Ameritech Center Drive
Hoffman Estates, IL 60196

James R. Hobson
Attorney for NENA
Donelan, Cleary, Wood & Master, PCD
1100 New York Avenue, NW, #750
Washington, DC 20005

Richard A. Muscat
The Gonzalez Law Firm, PC
One Westlake Plaza
1705 S. Capital of Texas Hwy, #100
Austin, TX 78746

Richard A. Askoff
Regina McNeil
National Exchange Carrier Assn., Inc.
100 South Jefferson Road
Whippany, NJ 07981

The Honorable Raymond L. Gifford
Colorado Public Utilities Commission
1580 Logan Street, Office Level 2
Denver, CO 80203

Marc D. Poston
William K. Haas
Missouri Public Service Commission
301 West High Street, Room 750
Jefferson City, MO 65101

Emily M. Williams
ALTS
888 17th Street, NW, Suite 900
Washington, DC 20006

John W. Hunter
Lawrence E. Sarjeant
Linda L. Kent
USTA
1401 H Street, NW, Suite 600
Washington, DC 20005

The Honorable Donald L. Dear
City of Gardena
1700 West 162nd Street
Gardena, CA 90247

Bob Pinzler
South Bay Cities Council of Govt.
5033 Rockvalley Road
Rancho Palos Verdes, CA 90275

Richard Eyre
REC Networks
P.O. Box 2408
Tempe, AZ 85280

Reginald N. Todd
Chief Legislative Representative
County of Los Angeles
440 First Street, NW, Suite 440
Washington, DC 20001

The Honorable Dee Hardison
City of Torrance
3031 Torrance Boulevard
Torrance, CA 90509

Theresa Fenelon Falk
Attorney for Saco River Telegraph &
Telephone Company
Pillsbury Madison & Sutro, LLP
1100 New York Avenue, NW, 9th Floor
East
Washington, DC 20005

Edward A Yorkgitis, Jr.
Attorney for Liberty Telecom LLC
Kelley, Drye & Warren, LLP
1200 19th Street, NW, Suite 500
Washington, DC 20036

Marsha N. Cohen
2201 Lyon Street
San Francisco, CA 94115

Richard C. Bartel
Communications Venture Service, Inc.
P.O. Box 11555
Washington, DC 20008

Peggy Arvanitas
c/o MAX Firest Class
621 Bypass Drive
Clearwater, FL 33764

Douglas F. Carlson
P.O. Box 12574
Berkeley, CA 94712

Michael A. Sullivan
15 Spencer Avenue
Somerville, MA 02144

Gilbert Yablon
SMART Dialing Systems
21914 Dumetz Road
Woodland Hills, CA 91364

William Neill
P.O. Box 33666
San Diego, CA 92163

Hugh R. Burrows
The BURROWS Resource Group Inc.
P.O. Box 5000
Lanark, Ontario
Canada KOG 1K0

S. Eckhaus
Paul S. Keller
New Hampshire Public Utilities
Commission
8 Old Suncook Road
Concord, NH 03301

*HAND DELIVERED

Vivian Lee

Vivian Lee