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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OCT 20 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Public Utilities Commission of Ohio)	NSD File No. L-99-74
Petition for Additional Delegated Authority)	
to Implement Number Conservation Measures)	
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the Telecommunications Act of 1996)	

**COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) hereby files its comments on the petition filed by the Public Utilities Commission of Ohio (Ohio) for additional authority to implement various number conservation measures in the above-captioned proceeding.¹ USTA is the principal trade association of the local exchange carrier (LEC) industry. Its members provide over 95 percent of the exchange carrier-provided access lines in the United States.

In its petition, Ohio seeks delegated authority to enforce current standards for number allocation or set and enforce new standards and requirements, order the return of unused, improperly used, reserved and/or protected NXX codes and/or thousand blocks if number pooling is implemented, order efficient number use practices within NXX codes, investigate and order additional rationing measures, and require number pooling where and when Ohio determines it to be appropriate. Ohio also asks for authority to implement technology-specific or service-specific overlays. Ohio maintains that it requires this additional authority to forestall the existing NPA exhausts and to prevent the premature exhaust of the anticipated new NPA codes.

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The Ohio petition is the tenth request of a state filed with the Commission since February 1999 seeking similar individual state relief to deal with number shortages,² and the second petition where comments are being filed after the Commission has granted portions of five of the states' requests.³ As USTA has cautioned, other states have jumped on the bandwagon with "me too" applications, thereby creating a burden on the Commission's processes and the industry's resources. USTA believes that the industry's and the nation's first priority in these matters must be to develop and implement a nationwide, uniform system of numbering. The Commission has consistently stated that it intends to develop a nationwide, uniform system of numbering and that such a system is "essential to the efficient delivery of telecommunications services in the United States."⁴ The Commission has further recognized that the industry, the Commission, and the states should work together to develop national methods to conserve and promote efficient use of numbers, but that those attempts "cannot be made on a piecemeal basis without jeopardizing telecommunications services throughout the country."⁵

USTA believes that the Commission should adhere to its policy that orderly national numbering conservation and administration measures are essential to the optimization of the

¹ Public Notice. DA 99-1894, released September 15, 1999 (Public Notice).

² 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 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); Californian 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); Wisconsin Public Service Commission Petition, NSD File No. L-99-64 (Wisconsin Petition); and New Hampshire Public Utilities Commission Petition, NSD File No. L-99-71 (New Hampshire Petition).

³ Order on New York Petition, FCC 99-247, released September 15, 1999 (New York Order); Order on Massachusetts Petition, FCC 99-246, released September 15, 1999 (Massachusetts Order); Order on Florida Petition, FCC 99-249, released September 15, 1999 (Florida Order); Order on California Petition, FCC 99-248, released September 15, 1999 (California Order); and Order on Maine Petition, FCC 99-260, released September 28, 1999 (Maine Order).

⁴ 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 ¶ 21 (1998).

⁵ *Id.*

North American Numbering Plan (NANP). The Commission must not further yield to the requests by individual states to fragment and decentralize number administration. As USTA has repeatedly stated, the effects would be disastrous to number planning and conservation in this country. Such action would result in a significant loss of effectiveness of the national program and its numbering conservation and administrative policies, and the diversion of resources will delay development of effective national measures. The Commission needs to focus on these national programs and the development of orderly national measures, rather than to devote so much of its own and the industry's resources to these individual state requests that will undermine the vital national scheme.

USTA has filed comments on each of the petitions, opposing the states' requests for additional authority that would jeopardize the industry processes underway for comprehensive nationwide number conservation. USTA has also addressed the issue of the states' authority to implement conservation measures on an individual basis in its comments and reply comments in response to the Commission's Notice of Proposed Rulemaking in CC Docket No. 99-200, Numbering Resource Optimization (Notice).⁶ Notwithstanding the Commission's partial grant of some of the states' requests, USTA continues to oppose the grant of additional authority to individual states in contravention of the nationwide number conservation policies and procedures. To the extent that Ohio seeks additional authority that would frustrate the national number conservation plan, USTA opposes the Ohio request for the reasons articulated in its earlier pleadings. Rather than repeat the reasons stated therein, USTA hereby incorporates by reference all its pleadings filed in the proceedings listed in footnotes 2 and 6, *supra*.

⁶ FCC 99-122, released June 2, 1999.

The basis for Ohio's requests for additional authority is that the state may be able to forestall some of the pending exhaust and points to the COCUS results between 1998 and 1999 to make its case against the current system.⁷ USTA cautions Ohio not to rely too heavily on the results of such a comparison, since the industry, including NANPA, has been concerned and is well aware of the deficiencies of the current COCUS tool.⁸ The point here is that Ohio's perceived problems with NPA exhaust may not be as critical as it believes them to be and much of the additional authority it is requesting may be unwarranted.

Ohio states that it is involved in the efforts to develop nationwide number conservation guidelines and that it does not want to undermine those undertakings.⁹ It further recognizes that, to the extent measures taken in Ohio become inconsistent with subsequently developed national guidelines, the state-specific guidelines would have to be modified.¹⁰ Ohio states that much of the authority it is requesting "merely involves strict enforcement of existing industry guidelines."¹¹ To that extent, USTA is gratified by Ohio's comments and encourages the Commission to take necessary steps to assure adherence to existing guidelines and does not oppose that particular request of Ohio.

USTA provides the following comments on Ohio's specific requests for authority in light of the Commission's recent actions on other states' petitions.

1. Number Allocation Standards, Ordering the Return of NXX Codes, and Ordering Efficient Number Use Practices

Ohio seeks authority to enforce current standards for allocation of NXXs. In response to a complaint in the Wisconsin Petition, USTA maintained that the Commission should clarify the

⁷ Ohio Petition at 3.

⁸ See NRO WG Report on COCUS Analysis and Recommendation, dated June 22, 1999.

⁹ Ohio Petition at 4.

¹⁰ *Id.*

¹¹ *Id.*

responsibility and authority of the North American Numbering Administrator (NANPA).¹² We also observe that California, New York, Florida, Massachusetts, and Maine each requested relief similar to that which has been requested here. As we stated in our comments to the New Hampshire Petition,¹³ the Commission has uniformly responded to those requests and we believe that the form of the Commission's response is very close to what is required for a broader solution to these problems. In each case, the Commission stated, "Therefore, we grant authority to the [state] Commission...to direct the NANPA to reclaim NXXs that the [state] Commission determines have not been activated in a timely manner.... We further direct the NANPA to abide by the [state] Commission's determination to reclaim an NXX code if the [state] Commission is satisfied that the code holder has not activated the code within the time specified by the CO Code Assignment Guidelines."¹⁴

In this delegation, the Commission has not authorized the state commissions to reclaim NXX codes themselves, but to direct the NANPA to reclaim codes. In the Commission's prescription, it is still the NANPA that reclaims the codes. USTA believes that if, in the first instance, the NANPA was confident of its authority and obligations, it would, on its own, reclaim codes that NANPA knew were being used in any manner inconsistent with the guidelines. If those conditions were clear, and the state commission were to advise the NANPA of misuse of codes and provide support for that conclusion, we believe NANPA would reclaim the codes. If the Commission were to validate the authority and responsibility of the NANPA to act in accordance with provisions in the guidelines and require that the NANPA must consider

¹² USTA Comments in Docket No. 99-200 at 6, and Reply Comments at 12, USTA Comments on Wisconsin Petition at 4-5.

¹³ USTA Comments on the New Hampshire Petition at 6.

¹⁴ California Order at 16, New York Order at 11, Florida Order at 22, Massachusetts Order at 11, and Maine Order at 9.

evidence provided by regulatory commissions when making such decisions, no additional state authority would be necessary.

USTA recommends that the Commission affirm the authority and responsibility of the NANPA to act in accordance with provisions in the industry guidelines and that NANPA is to consider information provided by state commissions in reaching its conclusions.

The petition also requests authority to set and enforce additional standards, such as fill rates and demonstration of readiness before NXX codes are granted. Because the matter of establishment of fill rates is such a difficult issue, we believe grant of such authority should be denied. Nonetheless, we observe that the Commission has granted analogous authority to California and New York.¹⁵ Indeed, in those grants, we believe that the Commission's own stated concerns would persuade that such authority should not be granted. We believe that Ohio's request should be denied; however, if the Commission does determine that such a grant will be made in this case as well, we urge that the cautions and conditions stated in the California and New York grants be maintained.

Ohio seeks authority to order sequential use of numbers within an NXX or thousand blocks. USTA's believes that its previous comments in this matter are still valid.¹⁶ USTA supports maintaining the greatest number of clean thousand blocks possible through assignments on a "thousand block by thousand block" basis, but also asserts that there is no need to do sequential thousand block assignments. Many states have excellent guidelines in place that accomplish the desired result, which should be used as a guide to develop national guidelines for a structure of assignments on a thousand block by thousand block level. USTA believes those states' requirements are effective and supports those requirements as a basis for achieving the

¹⁵ California Order at 12, New York Order at 12.

¹⁶ See USTA Comments in CC Docket No. 99-200 at 10.

desired results. There is a need for some flexibility in the assignment process, especially for smaller LECs, in meeting certain customer needs.¹⁷ USTA presumes that service providers are voluntarily complying with the state guidelines. USTA recommends that the Commission affirm that federal requirements are necessary.

2. Additional Rationing Measures

Ohio requests authority to investigate and order number rationing if an NPA nears a jeopardy situation. USTA believes that this proposal must be rejected, if for no other reason than for its imprecision and lack of specificity. The authority requested is so vague that it may not observe the concerns stated by the Commission in its authority granted to New York.¹⁸

3. Number Pooling

Ohio seeks authority to implement number pooling because Ohio believes it can provide significant benefits in certain situations. Although not specifically stated in the Ohio Petition, USTA assumes that this request is limited to thousand block pooling. Number pooling is another area that has been addressed by USTA in its previous comments filed on the state petitions and the Commission's Notice of Proposed Rulemaking in CC Docket No. 99-200, which could be repeated here but are incorporated by reference. However, USTA is in agreement with Ohio's condition that implementation of number pooling would be implemented only in those areas where number pooling passes an appropriate benefit/cost analysis.¹⁹ USTA believes that a careful analysis needs to be conducted which would show if the potential benefits of thousand block pooling are great enough to justify its implementation.

¹⁷ To meet customer requirements, number assignments may require going out of sequence, which has no effect on exhaust.

¹⁸ New York Order at 15.

¹⁹ Ohio Petition at 6.

4. Service-specific and Technology-specific Overlays

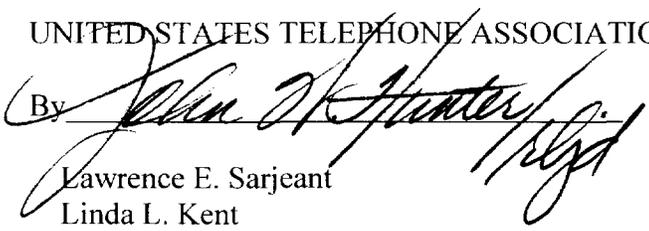
Ohio seeks authority to implement service-specific and technology-specific overlays and provides the results of a survey that shows a willingness of customers in Ohio to accept wireless-only overlays. USTA has consistently opposed the use of service-specific and technology-specific overlays absent evidence showing that they would advance number conservation.²⁰ USTA maintains its position. In the Public Notice to the Ohio Petition, the Commission states that it would address pending petitions for rulemaking and waiver of the prohibition against such overlays in the broader context of CC Docket No. 99-200. Therefore, USTA believes that the Commission's stated course of action should also apply to Ohio's request and that Ohio should not be granted any such authority at this time.

Conclusion

USTA urges the Commission to deny the Ohio petition for the reasons stated above and those in its previous comments and reply comments in CC Docket No. 99-200 and in its previous comments and reply comments to similar petitions by other states.

respectfully submitted,

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²⁰ See USTA Reply Comments in CC Docket No. 99-200 at 17.