

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

In the Matter of)	
)	
Nebraska Public Service Commission)	NSD File No. L-99-83
Petition for Delegation of Additional Authority)	
to Implement Area Code Conservation Measures)	
in the 402 Area Code)	
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the Telecommunications Act of 1996)	

**COMMENTS
OF THE
UNITED STATES TELECOM ASSOCIATION**

The United States Telecom Association (USTA) hereby files its comments on the petition filed by the Nebraska Public Service Commission (Nebraska) for delegation of additional authority to implement code conservation methods in the 402 area code 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, Nebraska seeks delegated authority to: (1) institute thousand block number pooling; (2) reclaim unused and reserved central office codes or portions thereof currently assigned; (3) audit number assignments; and (4) institute any other measures and to use any other authority granted by the Commission to the states to address the pressing problem of number exhaust and depletion.

¹ Public Notice, DA 99-2455, released November 4, 1999 (Public Notice).

The Nebraska petition is the twelfth request of a state filed with the Commission since February 1999 seeking similar individual state relief to deal with number shortages.² The Commission has now granted portions of ten 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

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); New Hampshire Public Utilities Commission Petition, NSD File No. L-99-71 (New Hampshire Petition); the Public Utilities Commission of Ohio Petition, NSD File No. L-99-74 (Ohio Petition); and Indiana Utility Regulatory Commission Petition, NSD File No. L-99-82 (Indiana 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); Order on Maine Petition, FCC 99-260, released September 28, 1999 (Maine Order); Order on Connecticut Petition, DA 99-2633, released November 30, 1999 (Connecticut Order); Order on New Hampshire Petition, DA 99-2634, released November 30, 1999 (New Hampshire Order); Order on Ohio Petition, DA 99-2635, released November 30, 1999 (Ohio Order); Order on Texas Petition, DA 99-2636, released November 30, 1999 (Texas Order); and Order on Wisconsin Petition, DA 99-2637, released November 30, 1999 (Wisconsin 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.*

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 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 Nebraska seeks additional authority that would frustrate the national number conservation plan, USTA opposes the Nebraska request for the reasons articulated in its earlier pleadings. Rather than repeat the reasons stated therein, USTA hereby

⁶ FCC 99-122, released June 2, 1999.

incorporates by reference all its pleadings filed in the proceedings listed in footnotes 2 and 6, *supra*.

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

1. Number Pooling

Nebraska seeks authority to implement thousand block number pooling because Nebraska believes it can produce a more efficient means of allocating scarce number resources. 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 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.

Although Nebraska does not specify whether it would implement thousand block pooling trials using the software version 1.4 or version 3.0, a broad range of carriers, including ILECS, AT&T and MCI Worldcomm, have objected to additional deployment of version 1.4. The Commission should investigate the problems connected with this version and should not, in the meantime, delegate any authority that would permit any state commission to require its further deployment.

We must reiterate that the industry is working energetically to conclude development of the details of thousand block pooling that is supported by version 3.0 of the NPAC software. Pooling based on version 1.4 in Illinois has been a valuable learning experience for the industry, but it also has its problems, one of which is that it cannot support efficient data representation (EDR). The industry is not looking to this form of pooling for long term deployment. USTA

also believes that the notion that version 1.4 can be deployed quickly is incorrect. It is essential that all industry energy and activity be focused on the form of pooling to which the industry has committed for the future. For these reasons, we urge the Commission to conclude that any pooling deployment ordered pursuant to Commission authority be compliant with version 3.0.

2. Reclamation of Unused Codes

Nebraska seeks authority to reclaim unused exchange codes that have already been distributed. In response to a complaint in the Wisconsin Petition, USTA maintained that the Commission should clarify the responsibility and authority of the North American Numbering Administrator (NANPA).⁷ 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,⁸ 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."⁹

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

⁷ USTA Comments in Docket No. 99-200 at 6, and Reply Comments at 12, USTA Comments on Wisconsin Petition at 4-5.

⁸ USTA Comments on the New Hampshire Petition at 6.

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

As it did in its comments on the Ohio Petition,¹⁰ 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.

3. Audit Authority

Nebraska requests authority to develop and establish a system to audit number assignment, distribution and use. USTA believes that this request should be denied. In the Commission's grant of authority to New York and Maine,¹¹ the Commission reiterated that this is a topic in the Numbering Resource Optimization Notice, and that the grant is limited in duration until Commission action on that Notice. While we understand the need to be able to determine the actual use of resources, given the impending action contemplated by the Commission, we cannot see how an effective auditing plan could be placed in effect and provide any positive

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

¹⁰ USTA Comments on the Ohio Petition at 5.

¹¹ New York Order at 16-17, Maine Order at 11.

result before the Order is available. In such a situation, the plan would likely have to be dismantled. We cannot see the benefit of such a waste of effort and resources.

4. Additional Measures

Nebraska requests authority to institute any other measures and use any additional authority granted to states to address number exhaust and depletion. 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.¹²

Conclusion

USTA urges the Commission to deny the Nebraska 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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¹² New York Order at 15.