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Federal Communications Commission

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CC DOCKET # 96-98

Contents: Reply comments of the Nebraska Public Service Commission

Due to the ECFS problems, I have included a date-stamped hard copy of the reply comments. I spoke with Magalie, and she agreed that this was a viable alternative to meet the Friday, December 17, 1999, deadline.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

In the Matter of the Nebraska Public Service Commission's Petition for Delegation of Additional Authority to Implement Number Conservation Methods for the 402 Area Code.	)	File No. NSD-L-99-83 REPLY COMMENTS CC Docket No. 96-98

FILED ELECTRONICALLY

I. Background

On September 14, 1999, the Nebraska Public Service Commission ("NPSC") filed with the Federal Communications Commission ("FCC") a Petition For Delegation of Additional Authority To Implement Area Code Conservation Methods In The 402 Area Code ("Petition"). In the Petition, the NPSC sought authority to 1) institute number pooling in thousand-number blocks; 2) reclaim unused and reserved central office codes or portions thereof already assigned; 3) audit number assignment; and, 4) institute any and all additional measures and authority granted by the FCC to other states seeking similar solutions to the problems of number exhaust and depletion.

II. Relief by the FCC Should Include Delegation of Authority to Address US West Policy Regarding Number Distribution.

We would call your attention to the comments filed by AT&T in this matter regarding the US West policy of number assignment which we believe is contrary to industry guidelines. As AT&T points out,

> "US West, Nebraska's incumbent BOC, has instituted a policy that requires local number portability-capable carriers to use a separate location routing number ("LRN") for every rate center from which they wish to receive ported numbers, and to obtain each LRN from a unique NXX assigned to that carrier."

Comments Filed by AT&T, NSD File L-99-83, CC Docket No. 96-98, 2.

The consequence of US West's policy is that it,

> "...effectively makes number pooling impossible, because it requires each CLEC to obtain a full NXX in each rate center it wishes to serve...US West's policy is directly contrary to industry guidelines as well. Indeed, the industry's position on this issue is so clear that, to the best of AT&T's knowledge, US West is the only ILEC seeking to require the use of an LRN per rate center."

Id. at 3. (Emphasis added.)

Any delegation of authority from the FCC must include authority for the state of Nebraska to require US West to forego its LRN per rate center policy. If not, any grant of authority for number pooling may be rendered moot and ineffective.

In addition, the state of Nebraska requests that the FCC work with us and with other states in the US West service area to require US West to abandon its policy of LRN per rate center policy. All US West states may be prematurely pressed into a number exhaust problem as a result of the US West policy. The FCC can take a strong stance against the unique corporate policy of US West that is anti-competitive and is contrary to the public interest in that it forces states into US West's preferred area code relief measure which is an overlay.

III. The FCC Should Grant Similar Delegation of Authority to Nebraska As It Has Previously Granted to Other States.

The FCC has already granted the delegation of authority sought by the NPSC to other states including Maine, Massachusetts, California, New York, Florida, Wisconsin, Connecticut, Ohio, New Hampshire, and Texas. The FCC has wisely delegated authority to these states to begin the process of thousand-block pooling and to implement other number conservation measures recognizing that while

these solutions may not address long-term relief, these conservation and number reclamation measures will stave off the need for states to implement more draconian solutions. Long-term solutions and short-term conservation measures must go hand-in-hand to minimize the cost, inconvenience, aggravation, and confusion that the imposition of overlays, area code boundary changes, and geographic area code splits will cause telecommunication consumers.

Consumers have, in the wake of the Federal Telecommunications Act of 1996, been forced to deal with a wide variety of changes in their local and long-distance telephone service. Consumers have endured additional charges, new fees, and, in some cases, higher rates, as states struggle to conform to the new regulatory milieu. As elected representatives, we acknowledge our duty to pursue efforts that will prevent unnecessary additional confusion and frustration. In short, the NPSC believes that it is irresponsible to impose these more cumbersome measures without having studied and implemented, where possible, measures that conserve and preserve telephone numbers.

In the short period of time that has passed since Nebraska has been notified of their potential area code problem, we have endeavored to examine and investigate all possible avenues of relief for telephone consumers. Our efforts at research and exploration of possible solutions have continued even while the state's Petition has been pending before your Commission. While we continue to canvass all possible solutions and to plan for the future, it has become even more apparent to us that the current method of number distribution to carriers requires reform. The grant of the remedies sought in the Nebraska Petition are not only consistent with past FCC policy, but are necessary to give Nebraska regulators full control of a situation that grows worse by the

month.

The Nebraska Public Service Commission does not feel that the delegation of authority sought in our Petition would impede the dialogue to a national solution as suggested in the comments filed against this Petition by the Personal Communications Industry Association (PCIA). Rather, the efforts of state regulators compliment and serve the efforts of the FCC regarding a national policy. Area code policy is an inherently state policy consideration. Simply, area code boundaries generally coincide with state boundaries. Initial policy decisions must come at the state level. As pointed out in the Comments Filed In Support of the Petition by the State of Maine, "[c]urrent conditions require immediate action." *Comments In Support of the Petition by the State of Maine, NSD File No. L-99-83, CC Docket No. 96-98,* at 3. In addition, in a recent decision, the Common Carrier Bureau directed NANPA to issue a relief NPA to New York noting that state commissions should be empowered to make determinations about area code relief because they are closer to local issues and concerns.

A large segment of the subscribers in the 402 area code are served by US West. We would call to your attention the comments filed by AT&T in this matter which suggest that the manner of number distribution by US West may be unique among former RBOCs and obtrusive to general industry guidelines.

As such, Nebraska should be entitled to investigate this process and should be given ultimate authority to craft a solution that may be unique to these subscribers. The Petition would grant the State of Nebraska just such authority.

Some commentators have criticized the Petition for "imprecision." See *Comments of the United States Telecom Association, NSD File N. L-99-83, CC Docket No. 96-98, at 7.* They believe that such a critique is warranted because the Petition has asked for authority to "institute any other measures and to use any other authority granted by the FCC to the states to address the pressing problem of number exhaust and depletion." *Petition,* at 1.

We have adopted the language used in other petitions in order that we may be resilient and responsive to changing information, data, and unforeseen circumstances. Time is not on our side. Although number use may be as low as 40% in our state, Nebraska regulators have been told that we must institute relief measures by the final quarter of 2000.

The US Telecom Association argues that the "rationale underpinning the various state requests has been that those jurisdictions need authority to undertake conservation methods specific to local circumstances." *Comments of the United States Telecom Association,* at 7. That statement explains the general problem and the reason why Nebraska is seeking delegation of authority to implement conservation methods. If another state finds an acceptable solution and shares that experience with regulators here in the Cornhusker State, should our regulatory hands be tied during the time that an additional petition outlining the same problems and challenges is drafted and presented to the FCC? The Nebraska Commission, and the FCC through prior delegations, both understand the time pressures that have been brought to bear on state commissions and the wide avenue of responses available. The FCC has not been timid in granting these delegations and should never back down.

In any event, the FCC, we are sure, stands ready and able to review any state actions and to take action on their own, if necessary. Given the small window of time that we have to work with, the state should be allowed to use any grant of authority which the FCC gives to other states similarly situated.

Comments filed in this Petition opposing the requested delegation of authority admittedly mirror the comments filed in similar petitions of other states. See *Comments of the United States Telecom Association, NSD File No. L-99-83, CC Docket No. 96-98,* at 3. No new argument has been made specific to the Petition of the State of Nebraska. Accordingly, the FCC should provide the same grant of authority that it has already sanctioned to similarly placed and similarly petitioning states.

Accordingly, even in light of the comments received, the state of Nebraska urges the FCC to act with diligence, fairness, reasonableness, and without further delay, in granting the state's requested delegation of authority consistent with measures which the FCC has already deemed appropriate for other states.

For the Commission

Lowell C. Johnson, Chairman
Nebraska Public Service Commission

Comments Filed Electronically