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May 19, 2000

VIA ELECTRONIC COMMENT FILING SYSTEM

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW
TW-B204F
Washington, DC 20554

Re: Numbering Resource Optimization,
CC Docket No. 99-200

Dear Ms Salas:

Pursuant to the March 31, 2000 Report and Order and Further Notice of Proposed Rulemaking in the above-referenced proceeding, enclosed please find the Comments of the Ad Hoc Telecommunications Users Committee ("Ad Hoc"). Ad Hoc's Comments are being transmitted to the Federal Communications Commission via the Federal Communications Commission's Electronic Comment Filing System ("ECFS").

If you have any questions or concerns, please do not hesitate to contact me at (202) 857-2550.

Respectfully submitted,

James S. Blaszak

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

In the Matter of	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	

Comments of the
Ad Hoc Telecommunications Users Committee

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Comments of the
Ad Hoc Telecommunications Users Committee

The Ad Hoc Telecommunications Users Committee ("Ad Hoc" or the "Committee") hereby submits its comments in response to the Commission's March 31, 2000 *Further Notice of Proposed Rulemaking* ("*Order and Further Notice*"*)* in the above-captioned proceeding.[1]

Summary

Current numbering resource management policies have imposed significant and unnecessary costs on society. The Commission must move faster on numbering issues to mitigate such costs. In so doing, the Commission should adopt numbering policies that cause carriers to use numbering resources more efficiently; that are competitively neutral; that protect users from paying additional surcharges for the carriers' ordinary and necessary costs of doing business; that ensure that users receive numbering resources as needed and in a timely manner; and that prevent the need for expansion

[1] *Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, FCC 00-104 (rel. March 31, 2000). The comment deadline in this proceeding was extended until May 19, 2000 by *Public Notice*, "Common Carrier Bureau Grants Motions For Extension Of Time To File Comments In The Numbering Resource Optimization Proceeding," DA 00-958 (rel. April 28, 2000).

of the NANP. Ad Hoc urges the Commission to take action promptly on the issues in the *Order and Further Notice* as well as revisiting those issues that have seemingly been left for consideration at an unknown future date.[2]

Ad Hoc's conclusion on the issues on which the *Order and Further Notice* seeks comment are as follows:

Proposed Number Utilization Threshold: The Commission should adopt a rate center-specific utilization threshold that non-pooling carriers must meet in order to receive growth codes. Carriers showing *bona fide* requests for additional numbers, however, can override such threshold.

Proposed Pooling Deadline for Non-LNP-Capable Carriers: CMRS carriers should implement thousands-block pooling upon expiration of the forbearance period.

Proposed Pricing Scheme for Numbering Resources: The Commission should reject this option; it is without merit.

The Costs of Thousands-block Pooling: Carriers should not be allowed to recover number pooling costs from end users. They have already recovered local number portability costs. Furthermore, the additional administrative costs

[2] The Commission notes that it has not addressed audits, rate center consolidation, ten-digit dialing, and technology-specific overlays. *Id.* at para. 9.

of pooling are far outweighed by the costs that carriers will avoid by deferring or eliminating altogether further area code relief, and the that costs carriers would otherwise face in the event of NANP exhaust.

A. The Commission Should Adopt Rate Center, Rather Than NPA-level Utilization Thresholds, And Should Allow For Override Of The Threshold For Carrier Satisfaction Of *Bona Fide* Customer Requests

The Commission proposes the adoption of a nationwide utilization threshold that carriers not participating in thousands-block number pooling must meet in order to qualify for "growth" numbering resources. Although commenters have previously supported thresholds of between 60% and 90%, the Commission tentatively thinks that the initial NPA-wide utilization threshold for non-pooling carriers should be set at 50%, increasing annually until it reaches 80%.[3] The Commission also proposes to adopt a rate center specific threshold range and to establish criteria by which state commissions would then set specific utilization rates in particular rate centers.[4]

Ad Hoc supports the Commission's proposal to adopt utilization thresholds that non-pooling carriers must meet before receiving growth codes. However, Ad Hoc does not support the Commission's tentative conclusion to set NPA-wide thresholds. Ad Hoc's opposition is not to the particular threshold proposed by the Commission (50% rising to 80%), but rather to the assumption that there is a need for a utilization threshold at the NPA level. The Commission should focus instead upon implementing a utilization threshold (or range) at the rate center level. There is no need to adopt both an NPA level and rate center level utilization threshold.

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[3] *Id,* at paras. 115, 248.

The Commission acknowledges, throughout the *Order and Further Notice*, that NPA-wide thresholds are not indicative of rate center specific utilization rates. The Commission has ordered that carriers report utilization at the rate center level specifically "because it more accurately reflects how numbering resources are assigned. NPAs can cover large service areas with widely differing characteristics (*e.g.* urban, rural)."[5] Many NPAs contain both urban/suburban areas and rural areas. While the utilization threshold at issue will apply to non-pooling carriers and thus eliminates those NPAs located entirely within one or more of the top 100 MSAs, there may be a greater range of population density among rate centers in NPAs where at least a portion of the included localities lies outside of the top 100 MSAs. "As a consequence, a carrier may be unable to meet an NPA-wide utilization rate, even when it is running into numbering shortages in particular rate centers in more densely-populated areas."[6] Users in more densely- populated areas should not be penalized because a particular carrier's utilization rate is very low in a rural rate center located within the same NPA.[7]

Any threshold set at the rate center level should be higher than that which the Commission proposes to set at the NPA level. Presumably, the Commission has taken account of the geographic differences that it cites and has calculated a mean utilization threshold to be used at the NPA level. If carriers are distributed growth codes on the

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4 *Id.* at para. 248.

5 *Id.* at para. 105.

6 *Id.*

7 An example of this is the 515 NPA in Iowa, which includes both the city of Des Moines and more rural areas.

basis of their rate center specific utilization rates, then this threshold should be higher, because it only reflects a carrier's use of numbering resources in that one rate center.

Ad Hoc is cognizant of the fact that the utilization threshold must be high enough to accomplish its stated goal. In other words, the utilization threshold must eliminate hoarding and unneeded use of numbering resources. However, the utilization threshold should not jeopardize the ability of carriers to obtain numbers for users in a timely manner. Unneeded delays may harm new entrants' ability to compete in the market, ultimately harming both business and residential consumers.

Carriers must have enough numbers on hand to fulfill service requests. With that in mind, the rules should include an exemption that allows the threshold to be overridden if a carrier has a bona fide request for a large block of consecutive numbers. Blocks of consecutive numbers are necessary for efficient configuration and operation of PBX equipment arranged for direct inward dialing ("DID"). In addition, it is impractical, and in many cases impossible, for a customer to successfully implement a PBX/DID arrangement if the customer is required to accept random, non-consecutive numbers spread throughout a particular NXX code or codes.

In the case of a *bona fide* request by a customer for consecutive block(s) of numbers, carriers should be able to receive growth codes in a timely manner. The administration of utilization thresholds and distribution of growth codes should include rules to allow growth codes to be authorized if needed even when the utilization threshold has not been met. The request must, however, be *bona fide,* and the carrier's showing persuasive.

B. The Commission Should Require Covered CMRS Carriers To Participate In Thousands-Block Pooling Immediately Upon Expiration Of The Forbearance Period.

Following repetitive requests by wireless carriers for further delay in their requirement to implement LNP, the Commission adopted a deadline of November, 2002 for covered CMRS carriers to implement LNP capability in its *CMRS LNP Forbearance Order*.[8] In the *Order and Further Notice*, the Commission adopts thousands-block pooling for LNP-capable carriers. However, the Commission declined to move the covered CMRS carrier deadline forward for the purpose of carrier participation in thousands-block pooling.[9] The Commission has ordered covered CMRS carriers to participate in thousands-block pooling once LNP-capable. The Commission seeks comments on whether covered CMRS carriers should be required to participate in pooling immediately or whether there should be a transition period from the expiration of their forbearance period.[10]

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[8] *Cellular Telecommunications Industry Association's Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations*, WT Docket No. 98-229 and *Telephone Number Portability*, CC Docket No. 95-116, Memorandum Opinion and Order, FCC 99-19 (rel. Feb. 9, 1999) at para. 25.

[9] In a decision issued April 25, 2000, the Massachusetts Department of Telecommunications and Energy explicitly ascribed its inability to implement a number pooling program that would be effective in delaying the need for additional area codes to the continuing exemption of CMRS carriers from the requirement to participate in pooling: "In its investigation of TNP [thousands-block number pooling], the Department first had to determine whether there were enough unused exchange codes in each area code to satisfy the needs of wireless carriers. The FCC has exempted wireless carriers from participating in LNP until at least November of 2002. This exemption proved to be TNP's crippling constraint. … TNP is based on LNP technology; therefore, any carrier that is exempt from LNP or otherwise not LNP-capable is unable to use numbering resources in blocks of 1,000 numbers and must continue to be assigned full exchange codes of ten thousand numbers until they become LNP-capable. This means that there has to be a sufficient supply of full (i.e., ten-thousands-block) exchange codes to serve those carriers until at least November of 2002, if they are to be able to serve their customer base." Petition of Lockheed Martin IMS, the North American Numbering Plan Administrator, for area code relief for the 508, 617, 781 and 978 area codes in Eastern Massachusetts, D.T.E. 99-11 and Proceeding by the Department of Telecommunications and Energy to conduct mandatory thousands-block number pooling trials pursuant to the authority delegated by the Federal Communications Commission In the Matter of Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code

Ad Hoc supports the Commission proposal to require covered CMRS carriers to participate in thousands-block pooling immediately upon expiration of the forbearance period. Participation of covered CMRS carriers in thousands-block pooling will provide for greater success in numbering resource conservation efforts and is the most competitively neutral solution. Covered CMRS carriers should not be given special treatment on this issue. As the Commission notes, covered CMRS carriers are receiving over two years notice to participate in pooling.[11] The Commission has only committed to giving other carriers three to six months notice for pooling participation.[12]

Thousands-block pooling will be most effective if all carriers in a rate center participate. Lockheed Martin, the former NANP administrator, has calculated that the NANP will not exhaust until 2092 if all carriers participate in thousands-block pooling with reclamation. In contrast, wireline-only pooling speeds NANP exhaust to a date 65 years earlier.[13] Clearly, participation by CMRS providers in thousands-block pooling is not of minimal benefit as argued by CTIA.[14] Furthermore, unjustifiably delaying the participation of covered CMRS carriers any longer will only contribute to the rapid

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Conservation Methods in the 508, 617, 781, and 978 Area Codes, CC Docket No. 96-98, FCC 99-246, NSD File No. L-99-19 (September 15, 1999), D.T.E. 99-99, Memorandum Order and Opinion (rel. April 25, 2000) (emphasis added) (footnotes omitted) at 13.

10 *Order and Further Notice* at para. 249.

11 *Id.*

12 *Id.* at footnote 384. The Commission notes that it will announce each round in the thousands-block implementation schedule at least six months prior to the date of occurrence. However, at para. 166 the Commission requests that the pooling administrator submit the roll out schedule for each "subsequent" quarter at least 90 days in advance.

13 *Number Utilization Forecast and Trends*, submitted by the North American Numbering Plan Administration ("NANPA") Lockheed Martin CIS, dated February 12, 1999 at 21. Ad Hoc acknowledges that the 2092 estimate includes carriers other than covered CMRS carriers, such as paging companies, nevertheless the contrast is quite striking.

14 *Order and Further Notice* at footnote 314.

exhaust of the NANP.

The Commission notes that it has not been given information in this proceeding that suggests that CMRS carriers can implement thousands-block number pooling before becoming LNP-capable. However, the Commission notes at the same time that Type I interconnection agreements do enable CMRS carriers to obtain numbers in smaller blocks.[15] Although these are not "true pooling systems," these arrangements could be used in the interim to allow CMRS carriers to participate in optimization efforts. While CMRS carriers might not be able to contribute to the pool, growth codes could be distributed in smaller blocks, thus lengthening the time to exhaust in a particular NPA. Finally, while the *Order and Further Notice* is silent as to the technical ability of CMRS providers using Type II interconnection to accept blocks of less than 10,000 numbers, it does not offer any substantive technical explanation for such a limitation. In Ad Hoc's view, CMRS carriers can be assigned individual thousands-blocks and be provided those numbers on a ported basis by an LNP-capable carrier until the CMRS provider is itself LNP-capable. The only limitation of which Ad Hoc is aware prevents the same NPX-NXX code from being assigned to more than one CMRS provider; however, that limitation would not materially diminish the effectiveness of assigning numbers in thousands-blocks to CMRS providers.

C. "Selling" Numbers Could Be Anti-Competitive Or Ineffective, And Is Certainly Unnecessary.

The Commission seeks comment on implementing a market-based allocation

[15] *Id.* at para. 136 and footnote 312.

system for numbering resources.[16] In the *Order and Further Notice*, the Commission suggests that such an approach is "the most pro-competitive, least intrusive way of ensuring that numbering resources are efficiently allocated,"[17] and thus seeks further comment on (1) the implementation of a market-based allocation system for numbering resources; (2) how a market-based system would affect the efficiency of allocating numbers among carriers; and (3) whether funds collected from carriers for numbers should be used to offset other payments carriers make to such programs as universal service or Telecommunications Relay Service ("TRS"), and how such contributions might affect carriers that do not generally use numbering resources, but do contribute to these programs.[18]

Ad Hoc submits that the concept of implementing a number-pricing plan as a number optimization measure is without merit, and should be shelved by the Commission.

At the heart of implementing a number-pricing plan is the determination of the actual price of a number. Setting a price too low will fail to send the necessary economic signals to carriers to affect the efficiency with which numbers are allocated. If the price is set too high, it becomes a barrier to entry to new carriers, who must be assured of access to adequate numbering resources in order to ensure competitive

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[16] *Numbering Resource Optimization*, CC Docket 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 Utility 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, Notice of Proposed Rulemaking, 14 FCC Rcd 10322 (1999) ("*NPRM*") at paras. 225-240.

[17] *Order and Further Notice* at para. 251.

alternatives to the incumbent. Even under the Commission's proposed plan for thousands-block pooling (which reduces the quantity of numbers needed for ubiquitous entry in a particular geographic area), a pricing plan could still create barriers to entry to many carriers because (1) the implementation of number pooling is still many months away, and (2) once begun, the plan is only to be instituted in a limited number of NPAs per quarter.

As a number conservation measure, the pricing of numbers should influence not just carrier requests for new numbers, but also the assignment of embedded numbers. In order to do so, ILECs (and other carriers that currently hold numbers) must be required to pay for their embedded pool of numbers. The theory behind setting prices for numbers is to provide a financial incentive for carriers to use their numbers in an efficient manner. Yet without being charged for the embedded base of numbers held, the behavior of established carriers with regard to these embedded numbers will not be changed. Moreover, paying for previously assigned numbers will level the playing field between new entrants and established carriers. Established carriers may possess enough numbers to meet demand for some time; since new entrants literally do not have any numbers, they should not be the only carriers to bear the burden of a number pricing policy.

Although it seems conceivable to assess these costs on embedded numbers, a new problem arises when the attempt is made to recover costs for a number that is being ported. The FCC has not assessed how charges are to be levied on carriers that

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[18] *Id.*

may have received the initial assignment of a particular number, but do not currently provide service to the end user following the implementation of local number portability. Such carriers would likely reject the notion that they are responsible for such fees, but how else would such payments be assigned?

The Commission must also assess the anticipated result of charging carriers for numbers, considering that carriers will ultimately seek to recoup these costs through charges to end users. The Commission must prohibit such an outcome; failure to do so will result in the removal of whatever economic incentive that once existed for assigning prices to numbers in the first place. Moreover, by allowing carriers to recover the costs of numbers from end users, the price set for numbers becomes effectively moot as well: carriers will not "feel" the financial impact of making these purchases. Therefore, the size of this financial impact is irrelevant.

Whether the Commission even has the legal authority to authorize a pricing plan for numbers was an issue raised in response to the NPRM that has been ignored by the Commission.[19] Ad Hoc contends that a critical, overarching issue such as the legality of implementing a number pricing system should be addressed and determined well before the merits of a particular system are analyzed.

Even if a market-based allocation system is implemented, there is no guarantee, or even any evidence cited by the Commission, that efficiencies in number consumption would result. Wireline carriers will still require codes in each and every rate center in which they desire to provide service. By setting prices for numbers, the

[19] Comments of AT&T Corp. on NPRM in CC Docket No. 99-200 (filed July 30, 1999) at 61.

Commission is actually establishing yet another barrier to entry with which new entrants must contend. A price for numbers that is set too high (which may in fact occur if the market is permitted to determine the price) will disproportionately affect new entrants, because they may lack the financial resources of incumbent LECs to purchase numbers.

If purchasing numbers to provide adequate coverage over a large enough region is prohibitively expensive, one of two things may happen: (1) the new entrant will retreat from the market and not provide competitive alternatives to consumers; or (2) the new entrant will reassess its entry footprint, the likely result of which would be a concentrated entry strategy into the most densely populated rate centers, leaving more rural areas with fewer service options. On the other hand, if the price for numbers is set at a "reasonable" or "affordable" level, it may well be more akin to a speed bump than a barrier to entry; under these circumstances, assigning prices to numbers may well have no impact whatsoever on carrier behavior in allocating numbers.

Incumbent LECs appear to have a far greater interest in maintaining large numbers of individual rate centers within NPAs, permitting them to retain the small local calling areas and short-distance intrastate toll routes that were in many cases established nearly a century ago. The presence of multiple rate centers forces entrants to request more numbers than they actually need, even under thousands-block assignment rules. It is both unfair and inefficient to permit ILECs to retain archaic rate center arrangements while at the same time forcing entrants to pay for quantities of numbers they would not otherwise require under an exchange structure with fewer rate

centers.

The Commission would also need to address how numbers in "old" NPAs would be priced vis-à-vis numbers in "new" NPAs. If the market sets the price, there is little doubt that a '212' number in Manhattan would command a higher rate than a '646' number. Likewise, a number in a densely populated NPA would intuitively be worth more than one associated with a more rural NPA. The Commission should carefully consider how such prices would be implemented and monitored.

The whole concept of setting prices in order to influence efficiency in the use of numbering resources seems to run contrary to the Commission's decision to implement more strict reporting requirements and assess the need for initial and growth codes on a "needs" basis.[20] The use of both needs-based and market-based standards for allocating numbers becomes redundant, depending upon the price that is ultimately set for numbers.

By assessing a market-based price for numbers that is somewhat high, the Commission is effectively rendering its needs-based standard moot. Assuming that prices for numbers will be public knowledge, carriers will already know whether or not they are able to afford the numbers they might be requesting. While these carriers must meet the utilization standards prior to receiving the new numbers, the needs-based standard only serves as a timing mechanism to indicate when the carrier will be allowed to receive its new numbers.

If the price for numbers is set relatively low (at a point where all carriers can

[20] As discussed, the Commission has established that rate center-based utilization levels should be provided by pooling and non-pooling carriers when requesting growth codes. *Id*. at paras. 104-105.

afford whatever numbers they may need), then it is the market-based standard that is moot; that is, the price itself will not play a role in making the carrier use its new or previously held numbering resources more efficiently. In neither of these cases does the price of the number play any substantive role in making carriers use their numbers more efficiently.

Moreover, if the carrier is meeting the required utilization levels, then it must follow that it is using numbers in an efficient manner. If the Commission feels otherwise, there is no real need to enact a second method of pursuing efficiency. Instead, the Commission could simply increase the utilization level required to receive a new batch of numbers. Ultimately, if a carrier is meeting the required utilization levels to request growth codes, it is operating efficiently within the parameters established by the FCC. There should be no further need to restrict the carrier's ability to serve its customers by charging it for numbers, particularly when such charges have the potential to bar entry to the market.

D. If The Commission Opts To Sell Numbers, The Proceeds Should be Used To Reduce Carrier Contributions To Commission Mandated Programs.

Proceeds from the sale of numbers should be used to offset carriers' contributions to universal service and TRS programs. The Commission should require that carrier recovery of the contributions to these programs (which ultimately are received from end users through surcharges) should be revised to account for the lower amount. In this manner, all end users will realize the benefit of contributing numbering funds to these programs. Failure to offset end user surcharges by the

amount recovered from the sale of numbering resources will result in an equivalent overpayment to these funds.

Worse, if end user surcharges are not reassessed and the Commission permits carriers to recover their costs of purchasing numbers from end users, then consumers will end up making the carrier whole and bear the burden of the overpayment to universal service and TRS programs. Neither situation is a permissible outcome of instituting a market-based allocation system for numbers.

E. Carriers Do Not Require Additional Cost Recovery From Consumers For The Implementation And Administration Of Thousands-block Number Pooling.

Pursuant to section 251(e) of the Communications Act of 1934, as amended, (the Act), the Commission designated thousands-block number pooling as a mandatory number optimization strategy to be adopted by all LNP-capable carriers nationwide.[21] The Commission determined that thousands-block number pooling is a "numbering administration function,"[22] the cost of which should be recovered exclusively under the federal jurisdiction (without recourse to federal/state cost separations)[23] Moreover, the Commission concluded that under section 251(e)(2) of the Act, the incremental costs for thousand-number pooling must be borne by all telecommunications carriers on a "competitively neutral basis."[24] Under the Commission's cost recovery principles for

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[21] 47 USC §251(e) (1998). The national pooling administrator, once selected, will oversee the national roll-out of thousands-block pooling, determining which LNP-capable NPAs are best positioned to benefit from pooling. *Order and Further Notice* at para. 159.

[22] *Id.* at para. 192.

[23] *Id.* at para. 195.

[24] *Id.* at para. 198.

number pooling, a carrier may only seek recovery of costs that it can show (1) would not have been incurred "but for" the implementation of thousands-block pooling and (2) were incurred "for the provision of" thousands-block pooling.[25] Pursuant to these principles, the Commission has determined that only costs "directly related to number pooling implementation" (whether shared industry costs or ones that are "carrier-specific") are eligible for recovery. Cost "not directly related to" thousands-block pooling, "such as general network upgrades," are not recoverable.[26]

The Commission's *Order and Further Notice* also recognizes that the principle of competitive neutrality must play a prominent role in determining the rules for recovery of thousands-block pooling, and, in fact, by law, is given precedence over costing principles (*e.g.,* cost causation) that are traditionally applied.[27] The Commission specifically notes "that the competitive neutrality requirement does not require the Commission to ensure that carriers recover all the costs expended for thousands-block number pooling implementation and administration," nor does it guarantee "any particular return."[28]

After setting forth this framework of broad cost recovery principles, however, the Commission expressed reluctance to adopt a specific cost recovery mechanism without a better understanding of the magnitude of the incremental costs involved and asked for further comment on this matter. The Commission also noted that while there has

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25 *Id.* at para. 218.

26 *Id.* at paras. 201-202.

27 *Id.* at para. 200.

28 *Id.*

been general support for its tentative conclusion that pooling costs should not be recovered through a federal charge assessed on end users, prior comments reflected a lack of consensus on whether price cap LECs should be allowed to treat their thousands-block pooling costs as "exogenous" cost adjustments.[29]

In reviewing the cost principles enunciated by the Commission and the role that thousands-block pooling is intended to play in the overall framework for number administration, Ad Hoc questions the need for any specific recovery of costs from end users. Ad Hoc agrees with the Commission's conclusion that any costs claimed by carriers in connection with thousands-block pooling need to be carefully scrutinized to prevent recovery of costs not directly linked to this specific number administration solution. Ad Hoc believes, however, that further examination of this issue should persuade the Commission that there is no need for separate recovery of "direct" costs associated with thousands-block pooling (whether shared or carrier specific), because the incremental costs of implementing thousands-block pooling are most likely a negative quantity, that is, they represent a net savings, when compared to the wasteful perpetuation of current area code practices. Moreover, should any incremental costs be demonstrated to exist, their recovery through a regulatory mechanism, such as the price cap "X-factor" adjustment, would violate the principle of competitive neutrality reflected in section 251(e) of the Act.

The Commission has appropriately recognized the thousands-block pooling is a form of number administration. Thus, the Commission should consider any costs

[29] *Id.* at paras. 252-253.

associated with thousands-block pooling as belonging in a portfolio of available number administration tools. Today, the standard industry response to number shortages is the implementation of a new area code. The repeated opening of new area codes imposes significant costs on carriers and end users alike. Thousands-block pooling is a conservationist alternative to the long-standing and wasteful industry practices that have made NANP exhaust a real possibility.

Consistent with this logic, the Commission has appropriately asked parties to focus on how the costs associated with thousands-block pooling compare with the costs of the "business-as-usual" practice of simply opening up more and more new area codes to determine the avoided costs of employing the number-conserving pooling approach.[30] Ad Hoc does not have access to the information necessary to generate a cost study based on ILECs' costs. It would appear, however, that substantial costs can be avoided by implementing efficient pooling. Area code expenses must be incurred each and every time a new code is opened, whereas the costs of implementing the approved software for thousands-block pooling will be accomplished substantially through a one-time software deployment, with minor periodic updates. As estimated by one major ILEC, the ILEC's own cost for a single

[30] In its *Order and Further Notice*, the Commission stated, "We believe that the implementation of thousands-block number pooling as a means of preventing number exhaust will result in certain cost efficiencies that do not inure to carriers under other methods (*e.g.*, area code splits and overlays, addition of another digit). We request that carriers determine their potential cost savings resulting from thousands-block number pooling by analyzing the avoided costs associated with thousands-block number pooling in comparison to the current practices that result in more frequent area code changes. The carriers also should include an analysis of the differences between the shared industry costs associated with thousands-block number pooling and the shared industry costs, if any, associated with the current practices that result in more frequent area code changes." *Id.* at para. 215.

area code upgrade is approximately $6-million.[31] If one adds to that amount the costs incurred by other carriers (CLEC and IXC), plus those incurred by consumers, and multiplies this amount by the ever-expanding number of new area codes, it seems more likely that number pooling will save carriers money over time than that pooling will result in a net positive cost. This threshold comparison does not take into account the costs of NANP exhaust (estimated as high as $150-billion), which will only be hastened by continuation of current area code practices and significantly retarded by the thousands-block pooling. If only a fraction of the savings from preserving the NANP are counted on the pooling's side of the ledger, it is hard to imagine that any positive incremental costs would remain.

In the same vein, because number pooling serves as an alternative to wasteful number deployment, it is reasonable to expect price-cap LECs to redirect financial resources already covered in their rates to finance the implementation and administration of number pooling, rather than seeking additional recovery for these costs. Thus, an exogenous adjustment for price-cap LECs is unwarranted. It is also not consistent with the Commission's past treatment of area code implementation costs. In the past, when ILECs have opened up new area codes, they have consistently treated the costs as an ongoing cost of doing business. Such costs have never been treated as exogenous adjustments by the FCC; in fact, to Ad Hoc's knowledge, no price

[31] In its 1996 annual price cap filing in Illinois, Ameritech estimated the cost for opening a new area code at $6-million. *Illinois Bell Telephone Company: Annual Filing for Noncompetitive Services under an Alternative Form of Regulation*, ICC Docket No. 96-0172, 1996 Ill. PUC Lexis 324,at *4, (ICC June 26, 1996) ("*ICC Annual Price Cap Filing*").

cap LEC has ever sought such an adjustment in a federal price cap filing.[32] The same is largely true at the state level. In fact, the one instance Ad Hoc was able to identify in which such recovery was sought in a state proceeding, the state agency squarely rejected the LEC's recovery effort.[33]

In addition, exogenous cost treatment for the incremental costs of thousands-block pooling would fundamentally violate the requirement that cost recovery be competitively neutral. A regulatory cost recovery mechanism, such as an exogenous adjustment, can only be implemented for regulated, local exchange carriers. The cost recovery opportunities of unregulated, competitive carriers are constrained by the competitive market for their services. Thus, permitting dominant ILECs to invoke the exogenous cost adjustment under price caps guarantees them full cost recovery, while competitors have no such guarantee. Conversely, if the Commission denies exogenous treatment for costs, the potential for discriminatory cost recovery is minimized, since non-dominant carriers will not be able recoup these costs through price increases when the dominant ILECs do not raise their prices.

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[32] In 1994, several ILECs filed tariffs that included special non-recurring charges for the costs of opening a new area code that was reserved exclusively for the use of a single customer (the federal government's National Communications System (NCS)). In defending their proposal, the LECs distinguished the costs associated with this user-specific area code as "unlike" the costs of codes opened for general public use, where the ILECs did not pursue specific cost recovery from end users. GTE Telephone Operating Companies Tariff F.C.C. No. 1, Transmittal No. 900, GTE System Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 102, US West Communications Tariff F.C.C. No. 5, Transmittal No. 519, The Southern New England Telephone Tariff F.C.C. No. 39, Transmittal No. 621, Order, 9 FCC Rcd 5758 (1994).

[33] In its 1996 Annual Price Cap filing in Illinois, Ameritech sought to recover costs for new area codes through an exogenous adjustment. In rejecting this proposal, the Illinois Commerce Commission stated, "Area code relief plans are necessitated by telephone number exhaust, which, in turn, is nothing more than a reflection of increased marketplace demand for telecommunications services. Although governmental agencies may be involved in the formulation of an area code relief plan, they are certainly not the origin of the costs incurred to implement a new area code." *ICC Annual Price Cap Filing,* at *9. It is noteworthy that Ameritech Illinois did not even attempt to pursue "exogenous" treatment of these costs in its interstate price

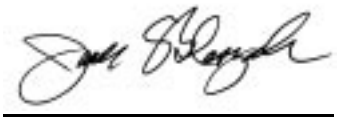
cap filing with the FCC.

Conclusion

In view of the foregoing, Ad Hoc respectfully requests that the Commission adopt the recommendations set forth above. These recommendations will help preserve existing number resources; prevent numbering policies from retarding the development of competition and treating new entrants unfairly; and save end users from needless, unjustified costs.

Respectfully submitted

Ad Hoc Telecommunications Users Committee

By 

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May 19, 2000

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