

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

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In the Matter of)
Numbering Resource Optimization)

CC Docket No. 99-200

COMMENTS OF SPRINT CORPORATION

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SUMMARY

In response to the specific questions outlined in Commission's Further Notice of Proposed Rulemaking, Sprint notes that it does not oppose the establishment of national "utilization thresholds," or fill rates, as a condition to a carrier receiving a NXX code for growth in a particular rate center. However, regardless of the threshold level that the Commission may ultimately adopt, it is imperative that the Commission adopt a "safety valve" procedure similar to what it required state commissions to utilize if they established fill rates to ensure that rapidly growing carriers - like Sprint PCS - have access to numbers when they are needed. In addition, in establishing a fill rate, the Commission must take into account the numbers that CMRS providers use in the provision of their services — numbers that while not assigned to customers, are nevertheless unavailable for assignment to customers.

In its comments, Sprint demonstrates that following LNP activation, it is advisable to permit CMRS providers at least 6 months before pooling numbers. In two years from now – at a rate of three NPAs in each NPAC region per quarter, landline carriers could be pooling in as many as 168 NPAs. CMRS providers, once they are "pooling ready" (after the 6 month stabilization period), should implement pooling going forward on the same basis and schedule as landline carriers – three NPAs in each NPAC region per quarter. CMRS providers should be allowed to transition to pooling where it was ordered before May 24, 2003, at that same rate. In other words, CMRS providers would then be pooling at an aggressive rate of 6 NPAs per NPAC region per quarter – three on a going forward basis, and three to catch-up where pooling has already been implemented.

While the Commission has requested detailed information regarding the cost to implement number pooling, Sprint points out that because several key pieces of the puzzle

are still missing – including, among other things, the identity of the pooling administrator, how much that entity will charge the carriers for its services, and what recovery, if any, the states will permit – it is unable to provide the Commission with the detailed data it desires.

Sprint challenges the Commission’s suggestion that in calculating costs, carriers should offset savings resulting from the institution of number pooling. The Commission provides no basis in fact for its assumption that implementing number pooling somehow “saves” the LEC industry significant expense by postponing an area code exhaust situation. As a result, the Commission’s assumption that there are savings associated with a delayed exhaust that should be used to offset number pooling expense is equally flawed. The Commission should dismiss the notion that what it believes to be “savings” should be used to offset LEC number pooling expenses.

Finally, Sprint points out that, like LNP, number pooling is not an access-related service. Consequently, it would be neither logical nor competitively neutral to increase interstate access charges and require the IXCs’ customers to pick up the tab for number pooling. The Commission must, therefore, reject completely any cost recovery mechanism that would involve placing number pooling costs in interstate access charges.

Sprint believes that the Commission should permit use of a federal end user charge as the recovery mechanism for number pooling expenses. Being cognizant of customer reaction to new charges, Sprint suggests that the simplest way to introduce this new charge is to increase the LNP end user charge already in place. If the Commission is opposed to increasing the LNP charge, the alternative is to permit the ILECs to continue the already tariffed LNP charge for a short time following the original five-year end date.

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

COMMENTS OF SPRINT CORPORATION

Sprint Corporation (“Sprint”), on behalf of its local, long distance and wireless divisions, submits its comments in response to the Further Notice of Proposed Rulemaking “FNPRM”) released along with the Commission’s March 31, 2000 Report and Order in the above captioned matter.¹

INTRODUCTION

Sprint fully supports the Commission’s initiatives to conserve the nation’s number supply. There can be no argument with the notion that, in order for new services and service providers to proliferate, numbering resources must be readily available on a competitively neutral basis. Toward that end, Sprint agrees with the Commission’s decision to implement number pooling on a nationwide basis.

However, while number pooling will be valuable tool in the Commission’s conservation arsenal, Sprint cautions that pooling is just that – a tool. It should not be viewed as the guardian of the numbering system. Said another way, pooling should not be considered as a substitute for area code splits or overlays. Sprint is aware that state regulators find area code relief to be unpopular with end users, however, when area code relief is called for it must be implemented without delay. The Commission must make clear to the states that number pooling, when used in concert with area code relief, works to advance the cause of number conservation. Attempting to use number pooling in place

¹ *In the Matter of Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 99-200, FCC 00-104 (rel. March 31, 2000). (“*Optimization Order*”)

of area code relief is no more than a stopgap measure that only briefly delays the inevitable, allowing the state to apply the wrong tool for the job at hand.

Finally, as this Commission is well aware, number pooling requires extensive planning and coordination. It can not be instituted on short notice nor will it be efficient if implemented on other than a nationwide basis. Sprint believes it is imperative to bring the instant docket to closure so that one national pooling plan is finally achieved. Even with the release of the *Optimization Order*, uncertainty continues to surround the federal plan. These prolonged ambiguities place both carriers and the states in an untenable situation, reluctant to act out of concern of being in conflict with the eventual national plan. In the meantime, number resources and the carriers in need of them are, quite simply, handcuffed. Sprint urges the Commission to remedy this situation expeditiously by quickly bringing its number pooling plan to completion.

I. UTILIZATION THRESHOLDS

The Commission has requested comment on the “specific utilization threshold(s)” it should adopt in order for CMRS and other non-pooling carriers to obtain a growth NXX code.² The Commission tentatively concludes that a “nationwide” rate center-based utilization threshold should be “initially set at 50%” and that this rate would increase “by 10% annually until it reaches 80%.”³

A. Proposed “Safety Valve” Procedure for Use with Any Fill Rate That the Commission May Establish.

Sprint does not oppose the establishment of national “utilization thresholds,” or fill rates, as a condition to a carrier receiving a growth NXX code in a rate center - although such a threshold is

² FNPRM at ¶ 248.

³ *Id.*

unnecessary if months-to-exhaust worksheets are adequately documented.⁴ However, regardless of the threshold level that may ultimately be adopted, it is imperative that the Commission adopt a “safety valve” so that rapidly growing carriers facing imminent exhaust can obtain the additional numbering resources they need - even though at the time of the application they do not meet the specified “utilization threshold.” Carriers meeting the “safety valve” criteria – showing that they face imminent exhaust – should automatically receive the numbers they need.

The Commission has previously expressed “concern” about the competitive impact fill rates can have on a carrier’s ability to serve its customers.⁵ The problem arises most frequently with rapidly growing carriers such as Sprint PCS.⁶ As the Commission has noted, “[i]f a carrier has a relatively high rate of customer demand for service, it may reach the requisite fill rate but be unable to get more numbering resources in time to meet customer demand.”⁷ Consequently, in delegating authority to certain states to establish fill rates for growth codes, the Commission specified that state regulators must “allow for some flexibility in establishing fill rates and applying them to carriers... Our primary concern . . . is that fill rates not be applied in such a manner as to deprive customers of their choice of carriers from whom to purchase service upon request.”⁸ The same considerations dictate the adoption of a national “safety valve” procedure if the Commission adopts national utilization thresholds.

⁴ As an alternative to fill rates, the Commission could require applicants to demonstrate that projected demand for a particular rate center is within the range of historic number assignment in the same rate center. Under such a procedure, an applicant would be entitled to a growth code if forecasted monthly demand is within, say, 15% of average historical monthly utilization. If forecasted demand exceeds 15% historical utilization, the applicant must explain the deviation before a growth code will be assigned. See, *Optimization Order* at fn. 204.

⁵ See, e.g., *California Delegation Order*, 14 FCC Rcd 17486 at ¶ 26 (1999).

⁶ Sprint PCS, while a new entrant carrier, has been growing faster than all other carriers, including large incumbent cellular carriers. For example, during the fourth quarter of last year, Sprint PCS was the first carrier to acquire more than one million customers during a single quarter.

⁷ *Id.* This is demonstrated by the following example. Assume a carrier is growing at a rate of 1,000 customers weekly in a particular rate center. With a rigid 75% fill rate requirement, this carrier would be precluded from submitting an application for a growth code until its inventory of available numbers was reduced to 2,500 — a supply adequate to meet demand for only 2.5 weeks. Yet, it takes over two months (66 days) between the time of code application until a code can be activated. See *California Delegation Order*, 14 FCC Rcd 17486 at n.72.

⁸ *California Delegation Order*, 14 FCC Rcd 17486 at ¶ 26.

Sprint recommends that the Commission establish a “safety valve” procedure for carriers facing imminent exhaust similar to what carriers have used in obtaining a growth code outside the lottery. It is imperative that the Commission set clear criteria for the assignment of codes and strict timelines within which NANPA or states must act on imminent exhaust requests. Carriers facing imminent exhaust cannot wait while NANPA or state commissions try to decide what procedures or criteria they should use. This Commission must establish clear criteria and strict timelines if carriers are to receive numbering resources when they need them. Specifically, the Commission should adopt the following procedure:

- The code applicant demonstrates that it will exhaust within three months (as opposed to the six months ordinarily required) even though it does not currently meet the specified fill rate;
- A growth code will be automatically assigned if forecasted monthly demand is within 15% of average historical monthly utilization;
- If forecasted demand exceeds 15% of recent assignment rates, the applicant must explain the deviation before a growth code is assigned. Such a demonstration may include historic assignment rates over the most recent busy holiday season (data that ordinarily would not be considered if not within the most recent six-month period).⁹

Sprint further recommends that NANPA evaluate code applications submitted under these “safety valve” procedures. Sprint is not opposed to giving states the opportunity to entertain appeals of NANPA decisions so long as the states agree to act expeditiously (e.g., 10 days).¹⁰ Given the exigent circumstances that exist when a carrier exercises the “safety valve” procedures, it is imperative that the review process be conducted promptly.

Through adoption of such a simple, exception procedure, the Commission can have confidence that no carrier will be denied the numbering resources it needs at the time it needs them.

⁹ CMRS providers often experience significant seasonal fluctuations in demand, with the fourth quarter generally constituting the busiest season of the year. Thus, if a CMRS provider submits a growth code application in September, its six-month average historic assignment rates will not likely reflect its needs for the upcoming fourth quarter.

¹⁰ Compare, *California Delegation Order*, 14 FCC Rcd 17486 at ¶ 30 (requiring California Commission to review within 10 days compliance with any fill rates it establishes); see also New Rule 52.15(g)(3)(iv) (permitting states to review NANPA assignment decisions).

B. Any New Fill Rate the Commission Establishes Must Take Account of All Numbers That Are Unavailable for Assignment to Customers.

Telephone numbers fall into one of three broad categories: (1) numbers assigned to customers and in use, (2) numbers available for assignment to customers, and (3) other numbers not available for assignment. The “other” category includes numbers set aside for aging, for use by other carriers (“intermediate” numbers), test numbers, and the like. In addition, CMRS providers must set aside additional numbers for particular mobile services such as roaming (Temporary Local Directory Numbers) and E911 emergency service (ESRD/ESRK numbers).¹¹

The Commission initially proposed to include in the fill rate equation numerator all numbers unavailable for assignment - whether because they are assigned to customers or unavailable for other reasons.¹² This equation would have accurately reflected the percentage of numbers still available for assignment to customers. However, the Commission changed course in its *Optimization Order*, deciding that the fill rate numerator should instead include only numbers assigned to customers and should *not* include other types of numbers not available for assignment to customers.¹³ The Commission made this change because of a fear that carriers would “unreasonably inflate” their other number use categories as a means to obtain codes that they would not otherwise be eligible to receive.¹⁴

Sprint does not oppose the Commission’s new methodology to consider in the fill rate numerator only numbers actually assigned to customers. However, in making this change, the Commission must necessarily establish a lower, overall fill rate. Whether or not the “other” category of

¹¹ The Commission has concluded that it should not establish different fill rates for different market segments because one fill rate applicable to all carriers would “maintain competitive neutrality.” *Optimization Order* at ¶ 106. Because CMRS providers must devote numbers for purposes not required by landline carriers, it is not entirely accurate to say that a single fill rate applicable to carrier carriers is competitively neutral.

¹² See, *In the Matter of Telephone Number Optimization*, 14 FCC Rcd 10322, at ¶ 64 (1999). (“*Optimization Notice*”).

¹³ *Optimization Order* at ¶ 109.

¹⁴ *Id.* See also *Id.* at ¶ 107. If the Commission maintains this course, it should change the terminology from “utilization rate” to “assignment rate.” It is misleading to call the new formula a “utilization rate” because the formula does not include in its calculation numbers that carriers are legitimately using (even though they are not assigned to customers).

numbers is included in the numerator, the fact remains that these other numbers cannot be assigned to customers.

The Commission must understand that for legitimate reasons carriers may have different requirements for use of numbers falling within the “other” category. For example, unlike landline carriers, CMRS carriers must devote numbers to support roaming and E911 services. In addition, there may be wide variations among carriers in the same industry segment regarding the percentage of numbers set aside for “other” purposes. For instance, “intermediate” numbers fall within this “other” category and under the new rules, would be considered as if they were available for assignment to customers (when, in fact, they are not). Yet, some facility-based carriers may have far more reseller activity than others, which may force these carriers to have a much higher percentage of “intermediate” numbers than other carriers. Setting too high a fill rate based on an assignment-only numerator would penalize facility-based carriers that encourage the resale of their services and could have the unintended effect of discouraging resale.

Similarly, unlike the standard industry practice of obtaining separate NXX codes for the provision of prepaid services, Sprint PCS sets aside a certain range of numbers within each NXX code for assignment to its prepaid service customers. It is necessary to identify this class of service by line range for billing and routing purposes.¹⁵ These prepaid numbers do not neatly fit into any of the six categories that the Commission has established.¹⁶ If the Commission adopts a fill rate that is overly stringent, Sprint PCS may be compelled to abandon its current practice and acquire separate NXX codes for its prepaid service - as a means to increase its inventory of numbers available for assignment

¹⁵ Many wireless carriers follow this practice. Others have separate NXXs just for prepaid customers for billing and routing purposes. In either case, it is necessary to identify class of service with a particular set of numbers, whether by a certain line range or a whole NXX.

¹⁶ Although these numbers are set aside, or reserved, for prepaid service, they do not fall within the new definition of reserved because Sprint PCS must maintain this range of numbers longer than 45 days. See New Rule 52.15(f)(1)(vi). This set aside is similar in function to intermediate numbers, but they do not literally fall within this definition either, because intermediate numbers are defined as numbers available for use by “another carrier.” New Rule 52.15(f)(1)(v).

to post-billed customers. Sprint submits that the public interest is not served by encouraging carriers to obtain additional NXX codes for special services.

It is important for the Commission to remember the limited purpose of fill rates in establishing the appropriate fill rate level. Fill rates are a back-up procedure, designed to “increase the reliability” of the months-to-exhaust (“MTE”) worksheets and to “make sure that carrier requests are needs-based.”¹⁷ The Commission should make clear that in considering requests for growth codes, NANPA should continue to rely principally on MTE worksheets.¹⁸

The Commission has proposed establishing the fill rate at 50% for the first year, increasing this rate by 10% annually until it reaches 80%.¹⁹ Sprint agrees that a 50% fill rate is a realistic starting point, particularly if only assigned numbers are included in the numerator. However, fill rates above 70% under this standard are not likely to be readily achievable, especially for carriers with high growth rates and for wireless carriers that must reserve a certain level of numbers for prepaid assignments.

Therefore, Sprint recommends that if the Commission retains a fill rate equation that includes only assigned numbers in the numerator, the rate be set initially at 50% and this rate be increased by 5% annually until the rate reaches 70% (with a safety valve exception). This arrangement would give carriers more time to modify their practices relative to the “other” number category, particularly those categories such as intermediate or special services numbers that may constitute a sizable percentage of numbers in a NXX block. (However, it should be noted that some level of numbers must always be set aside for assignment to prepaid customers. Whether those numbers come from a certain line range within an NXX or from an NXX dedicated just to prepaid, they will still be needed to identify the class

¹⁷ *Optimization Notice* at ¶¶ 104, 115.

¹⁸ MTE worksheets are especially important to ensure that incumbent carriers do not receive unneeded codes. Assume a new entrant has one NXX code. With a fill rate of 60%, it could apply for a growth code when 6,000 numbers have been assigned to customers, leaving the remaining 4,000 numbers available for other purposes or for to assignment to customers. If an incumbent carrier has 10 codes in a given rate center, with a 60% fill rate it could submit an application for an 11th code when 40,000 numbers — the equivalent of four entire NXX codes — are available for assignment to customers or for use for other purposes.

¹⁹ *Optimization Notice* at ¶ 248.

of service for billing and routing purposes.) It would be appropriate for the Commission to reevaluate these thresholds after industry has had some experience in using fill rates and once empirical data becomes available.

C. There Is No Need to Establish NPA-Level Thresholds in Addition to Rate Center-Based Thresholds

The Commission asked in its original *Notice* whether utilization levels should be calculated on an NPA-wide or a rate center-wide basis.²⁰ In its *Optimization Order*, the Commission correctly concluded that utilization should be determined by rate centers because rate centers “more accurately reflect how numbering resources are assigned”:

NPAs can cover large service areas with widely differing characteristics (e.g., urban, rural). For example, some NPAs contain both suburban/ rural and urban areas. In such “mixed” NPAs, carriers might have high utilization rates in rate centers located in densely populated areas of the NPA, and lower utilization rates in the more rural or suburban rate centers in the NPA. 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.²¹

Because carriers assign numbers to customers based on rate center considerations, it is essential that fill rates be applied to rate centers, and not on an NPA-wide basis.

In its most recent *Notice*, the Commission seeks comment on the specific “rate center-based utilization threshold” it should establish “for the rate center in which [a carrier] is seeking additional numbering resources.”²² It also seeks further comment on utilization thresholds “at the rate center level, that should operate in unison with the thresholds at the NPA level.”²³

²⁰ *Optimization Notice*, 14 FCC Rcd 10322, at ¶ 66.

²¹ *Optimization Order* at ¶ 105.

²² FNPRM at ¶ 248.

²³ *Id.*

Sprint avers there is no need to establish thresholds at the NPA level. As the Commission noted in its *Order*, because of the widely differing characteristics of NPAs and because carriers assign numbers using rate centers, no purpose would be served by establishing NPA-based thresholds in addition to rate center-based thresholds.

D. No Purpose Is Served by Permitting States to Establish Fill Rates Different from the National Fill Rate.

The Commission has asked whether it should establish a range of fill rates and permit each state commission to set its own specific fill rate within this range.²⁴ No purpose would be served by adoption of such an approach. If a 50%, 60%, or 70% rate is appropriate for one state, that same rate is appropriate for all states. The size of the state or the number of NPAs has no bearing on a carrier's need for numbers in a particular rate center.

The Commission has repeatedly acknowledged that number conservation is a national issue. Carriers can achieve substantial cost efficiencies by following one set of rules nationwide. In this regard, the Commission has noted the undesirable impact that “multiple, disparate number conservation regimes” can have on carriers providing service in multiple states, and it was for this very reason that it encouraged state commissions seeking delegated authority to establish fill rates “to establish fill rates that are not inconsistent with those imposed by other states.”²⁵ Reversing course and now permitting states to establish disparate regimes is particularly inappropriate if, as appears to be the case, the best approach is to adopt fill rate levels that increase over time.

Carriers and state commissions have ample work to do in implementing (and for states, enforcing) the numerous number conservation measures that the Commission has ordered. In addition, some states must begin to devote their attention to long-overdue area code relief. Now is not

²⁴ FNPRM at ¶ 248.

²⁵ *California Delegation Order*, 14 FCC Rcd 17486 at ¶ 27.

the time to encourage the commencement of perhaps dozens of redundant state proceedings seeking to determine whether the fill rate should be set at 55%, 60%, or 65%.

II. IMPLEMENTATION OF POOLING FOR NON-LNP CAPABLE CARRIERS

A. CMRS Providers Should Be Permitted At Least A Six Month Network Stabilization Period Following Initial LNP Deployment And A Limit On Quarterly Pooling Implementation.

The Commission has asked whether it should establish a “transition period between the time that covered CMRS carriers must implement LNP, and the time that they must participate in pooling, and if so, what the minimum reasonable allowance for such a transition period would be.”²⁶ The Commission’s *Notice* suggests that CMRS providers may need little time following LNP activation before they can begin participating in pooling because “we are providing a fairly long lead-time – more than two years – in which all of the necessary preparations may be accomplished.”²⁷ However, given the additional complexity of LNP in CMRS networks and the paramount importance of ensuring network reliability, Sprint asserts that it is advisable to give CMRS providers at least the same six-month network stabilization period that the Commission extended to landline carriers following their initial LNP deployment.²⁸ Number conservation interests would not be impaired in any meaningful way by a short delay in the CMRS pooling start date.

The Commission has noted repeatedly that “we consider network reliability to be of paramount importance.”²⁹ The Commission has also recognized that while “lead time” certainly is important in installing a new technology, adequate “post installation time” is also imperative to ensure that the new

²⁶ FNPRM at ¶ 249.

²⁷ *Id.*, at ¶ 249.

²⁸ At minimum, the Commission should delegate to the Wireless Bureau the authority to extend the six-month “network stabilization” period if problems arise with LNP deployment in CMRS networks. See, *First LNP Order*, 11 FCC Rcd at 8440 ¶ 167 (delegating to the Bureau the authority to extend CMRS deadlines by nine months); *Bureau CMRS LNP Extension Order*, 13 FCC Rcd 16315 (1998) (Bureau compelled to exercise its delegated extension authority).

²⁹ *First LNP Reconsideration Order*, 12 FCC Rcd at 7285 ¶ 83. See also *Third LNP Reconsideration Order*, 13 FCC Rcd 16090, 16097 ¶ 10 (1998) (“We continue to believe that network reliability is of the utmost importance.”).

technology actually works as advertised. Landline carriers implemented LNP in phases, over time. The Commission rejected the suggestion that LECs should “flash cut” to LNP on a fixed date, determining that such an approach would strain both carrier and vendor resources, thereby threatening network reliability.³⁰ The Commission first required the conduct of a LNP “field test” in Chicago as a means of “ensuring the integrity of the public switched network as number portability is deployed nationwide.”³¹ The Commission further recognized the critical need for each region to conduct a Phase I, first office application (“FOA”) test of LNP in one MSA, before expanding use of the new technology in other MSAs. The Commission initially gave landline carriers three months to conduct their FOA before deploying the new technology in other MSAs,³² but on reconsideration, the Commission decided it was necessary to extend the Phase I end date by three months - giving landline carriers a total of six months for FOA testing - “because we are now persuaded that initial implementation of this new number portability technology is likely to require more time than subsequent deployment once the technology has been thoroughly tested and used in a live environment”:

[I]nitial implementation of this new technology is likely to involve more extensive testing, and may require extra time to resolve any problems that may arise during the testing. . . . [W]e conclude that a three-month extension of the time period for initial deployment in Phase I markets appropriately safeguards network reliability, and therefore is warranted.³³

As the Commission has recognized, implementation of LNP in CMRS networks represents “... technical burdens unique to the provision of seamless roaming on their networks.”³⁴ Because of the special technical challenges that roaming imposes, all CMRS carriers throughout the country - whether

³⁰ *First LNP Order*, 11 FCC Rcd 8352, 8395 ¶¶ 80-81 (1996).

³¹ *First LNP Order*, 11 FCC Rcd 8352, 8394 ¶ 79 (1996).

³² *First LNP Order*, 11 FCC Rcd 8352, 8393-94 ¶¶ 77-79 (1996).

³³ *First LNP Reconsideration Order*, 12 FCC Rcd 7236, 7283-84 ¶¶ 78-79 (1997).

³⁴ *First LNP Order*, 11 FCC Rcd at 8439 ¶ 164. See also *First LNP Reconsideration Order*, 12 FCC Rcd at 7312 ¶ 134; *CTIA LNP Forbearance Order*, 14 FCC Rcd 3092 at ¶ 5 (1999) (“[W]ireless carriers face[] certain unique technical challenges in implementing number portability, in particular the need to configure their networks so that wireless users with ported numbers would be able to make and receive calls while roaming outside their home service areas.”).

large or small, whether located within or outside the most populous MSAs - must “flash cut” to LNP on the same date.³⁵

It is simply unrealistic to expect that a nationwide conversion of complex technology among hundreds of carriers and thousands of network elements/systems will immediately work flawlessly. Each CMRS carrier must verify following LNP activation that all its systems are operating properly. In addition, each CMRS provider must confirm with each of its roaming partners that its customers can continue to roam without interruption.

In addition, the Commission has permitted states to order number pooling for landline carriers at a rate of three NPAs in each NPAC region per quarter. At that rate, there may be pooling in 168 NPAs in two years. Requiring CMRS providers to implement pooling immediately following the LNP activation date - without the benefit of any network stabilization period and without staggering CMRS implementation of pooling where it has already been rolled out - would increase exponentially the risk to network reliability, especially for customers who have not requested any change to the service. If a problem arises with LNP, the problem will likely impact the service of the person wanting to take advantage of the LNP capability (eg, the person keeps his mobile number upon changing service providers). With pooling, however, a customer who has requested no change in his service could suddenly discover that he is no longer able to receive calls because of the action or inaction of a carrier other than his service provider.³⁶

It bears noting the current LNP activation date of November 24, 2002, falls within the CMRS' industry's busiest season. Many CMRS providers generate between 30% to 50% of their sales during the fourth quarter holiday season. It also bears noting that wireless resale obligations expire at that

³⁵ *Optimization Order* at fn.286.

³⁶ This could occur, for example, if a CMRS provider donates a contaminated block to the pool. The donating carrier will have to port its customer numbers back from the contaminated block to continue to provide uninterrupted service to its customers. These customers have not asked to have their numbers ported. They have not sought to change service providers, but because of pooling, their service is at risk of interruption if technical or process problems arise with pooling.

time, too. So, resellers may be seeking to move large blocks of numbers to new providers. Common sense suggests this is not the time for CMRS providers to introduce portability and pooling simultaneously. Importantly, there is no reason to rush the pooling start date and jeopardize network reliability in the process. The Commission has decided that CMRS providers must begin to manage their numbers in blocks of one thousand.³⁷ The Commission imposed this requirement in order to “protect clean thousands-blocks from unnecessary contamination.”³⁸ So long as CMRS carriers are managing their numbers in blocks of one thousand, it makes little difference whether pooling begins in November or in May.

B. The Pooling Administrator and CMRS Providers Will Require Three or Four Months to Implement CMRS Pooling.

The Commission has required the industry to follow the INC Pooling Guidelines.³⁹ These Guidelines specify the procedure carriers and the pooling administrator must use in implementing pooling in a given area. The procedures include:

- a first implementation meeting to discuss the milestone and establish dates for each milestone;
- a forecast report date, the deadline when carriers report their forecasted demand for thousands blocks;
- a block protection date, when carriers must protect blocks with less than 10% contamination;
- a block donation identification date, when carriers report their surplus/deficiency of thousands blocks;
- an administrator assessment of inventory pool, when the administrator determines what additional resources may be needed;
- a block donation date, when carriers donate their uncontaminated blocks to the pool; and
- a pool start/allocation date, the date pooling begins.⁴⁰

³⁷ See, new Rule 52.15(j). The specific rules that the Commission adopted — carriers must use numbers in an existing block “in its entirety” before opening a new block — is simply not workable for carriers with multiple distribution channels, and the rule certainly does not achieve its stated objective of “maintaining carrier flexibility in meeting customer demand.” *Optimization Order* at ¶¶ 244-45. However, this subject is appropriately addressed in reconsideration rather than in this *FNPRM* proceeding.

³⁸ *Optimization Order* at ¶ 244.

³⁹ *Optimization Order* at ¶ 183.

Experience has demonstrated that the pooling administrator and landline carriers generally require about six months to perform all these steps. It might be possible to shorten this time period because CMRS providers will be joining pools already established. However, the pooling administrator and CMRS carriers will need at least three months, if not four or five months, to complete these necessary tasks. Indeed, a minimum of 66 days is needed between the block donation identification date and the block donation date to allow for code activation to populate the inventory pool.⁴¹

Sprint recommends that the Commission consult with the current pooling administrator in order to determine the minimum amount of time needed to implement CMRS pooling once the CMRS LNP stabilization period has ended.

C. Once CMRS Carriers Are “Pooling Ready,” They Should Implement Pooling at the Same Pace as Landline Carriers.

The Commission has determined that “a staggered rollout schedule is necessary” for landline carriers implementing pooling.⁴² Based on the recommendation of the current pooling administrator, it further determined that landline carrier pooling rollout should encompass “a maximum of three NPAs in each NPAC region per quarter.”⁴³ CMRS providers should be subject to the same schedule once they are “pooling ready” - that is, CMRS providers should implement pooling on a going-forward basis in a maximum of three NPAs per NPAC region per quarter. Sprint recommends that CMRS providers also implement pooling in NPAs where pooling was implemented before May 24, 2003 at a rate of three NPAs per NPAC region per quarter.

⁴⁰ See, Industry Numbering Committee, *Thousand Block (NXX-X) Pooling Administration Guidelines*, INC 99-0127-023, at § 8 (Feb. 28, 2000).

⁴¹ *Id.* at § 8.2.7.

⁴² *Optimization Order* at ¶ 159.

⁴³ *Id.*

III. RECOVERY OF SHARED INDUSTRY AND DIRECT CARRIER-SPECIFIC COSTS

A. Complete Data on the Cost of Number Pooling is Not Currently Available.

The Commission has concluded that it requires additional information before it can determine the appropriate mechanism by which carriers will be permitted to recover the costs associated with implementing number pooling. Sprint understands that in requesting this additional data, the Commission is hoping to assess the magnitude of the industry's costs. Unfortunately, several key pieces of the puzzle are still missing – including, among other things, the identity of the pooling administrator, how much that entity will charge the carriers for its services, and what recovery, if any, the states will permit. Moreover, there has been no firm regulatory decision regarding the network architecture to be used to implement number pooling. This decision is critical to both the manner in which pooling will be implemented and the resulting cost of implementation. The Commission has before it two choices – NPAC Release 1.4 or Release 3.0. As the Commission is no doubt aware, NPAC Release 1.4 has associated with it costs that are wholly unnecessary in light of the existence of the newer Release 3.0. Release 1.4 has immense memory requirements – so great, in fact, that most carriers would be compelled to add SCPs to their networks in order to support the software's memory needs. Release 3.0, on the other hand, is not saddled with these hardware requirements and is, by definition, more cost efficient (as well as more effective) than Release 1.4.

As long as the specter of Release 1.4 looms, it is impossible for carriers to finalize implementation plans and assess accurately the costs associated with number pooling. To solve this problem, Sprint asserts that a national standard is needed. Sprint urges this Commission to exercise its authority under Section 251(e)(1) of the Act to declare Release 3.0 to be the appropriate network architecture for the deployment of nationwide number pooling. Until that mandate is issued, it will be impossible for any carrier to provide the Commission with the detailed cost data it seeks as part of the FNPRM.

B. LEC Cost Studies Should Not Be Required to Include Calculations of Supposed “Cost Savings”.

At paragraph 253 of the FNPRM, the Commission solicits “... comments and cost studies that take into account the cost savings associated with thousands-block pooling in comparison to the current numbering practices that result in more frequent area code changes.” Sprint respectfully suggests that the Commission’s request here is based on seriously flawed logic. The Commission provides no basis in fact for its assumption that implementing number pooling somehow “saves” the LEC industry significant expense by postponing an area code exhaust situation. As a result, the Commission’s assumption that there are savings associated with a delayed exhaust that should be used to offset number pooling expense is equally flawed.

The Commission somehow assumes that the accelerated NPA exhaust rate is “business as usual” and therefore is covered in ongoing LEC cost recovery processes. This is simply not the case. Sprint agrees, of course, that a numbering crisis exists today – there can be no debate on that point. With the advent of competition, the need for area code relief is occurring at a harried pace. Using the Commission’s statistics, there were 11 NPA exhausts in 1996, 32 in 1997, 24 in 1998 and 22 in 1999.⁴⁴ However, this was not always the case. According to the Commission’s own records, between 1984 and 1994, only nine new area codes were introduced.⁴⁵ Nine area code changes in a ten-year period did not create enough concern among either regulators or carriers to result in the creation of a special cost recovery methodology for the ILECs.

More importantly, it was during this same time period that price cap regulation was introduced for ILECs. Again, because area code changes were not, at that time, occurring with any regularity, costs associated with area code relief were never calculated into price cap rates. Consequently, there has

⁴⁴ *Id.*, at fn 8.

⁴⁵ *Id.*, at ¶6.

never been an on-going mechanism in place to allow the ILECs to recover the costs resulting from deploying area code relief. Correspondingly, because there have been no on-going cost recovery, there are no “savings” associated with delaying an area code change.

In even suggesting that the introduction of number pooling provides LECs with a savings, the Commission appears to be ignoring the intellectual capital associated with moving the industry to number pooling. In fact, NANC and INC members have spent countless hours working through the issues associated with number conservation. These efforts are funded by the industry; thus, there is no “savings” involved, at any level of the equation. Even if there were savings generated as a result of this process, Sprint argues that they would belong to the industry. The mere suggestion that savings growing out of these types of pursuits offset associated expenses is not only questionable from a legal perspective, but imprudent in that such a regulatory response would undoubtedly quash any further efforts by the industry to work towards creative solutions such as number pooling.

The Commission should dismiss the notion that what it believes to be “savings” should be used to offset LEC number pooling expenses.

C. The Commission Should Adopt a Cost Recovery Mechanism that Permits the ILECs to Increase Slightly Current LNP End User Charges.

In its *Optimization Order*, the Commission outlined the types of costs it would permit a carrier to recover mirroring, to a great degree, the cost recovery methodology it applied to LNP. Without expressly endorsing that approach, Sprint does, however, believe it would be appropriate for the Commission to adopt an end-user charge as the mechanism by which carriers will be permitted to actually recover their number pooling costs. Specifically, when faced with the question of how carriers should recover their carrier-specific LNP costs, the Commission found that it would permit ILECs to utilize a federal charge assessed on end users, reasoning that:

... we recognize consumer's sensitivity to end-user charges. Under the circumstances before us, however, we conclude that allowing the carriers to recover number portability costs in this manner will best serve the goals of the statute. The Commission has only two sources from which it may allow carriers to recover costs in the federal jurisdiction: charges IXCs pay LECs for exchange access and end-user charges. Because number portability is not an access-related service... , we will not allow LECs to recover long-term number portability costs in interstate access charges. Nor would it likely be competitively neutral to do so. We note further that, like long-term number portability, the advent of equal access and 800 number portability required carriers to incur significant costs to modify their networks... These improvements led to increased competition and substantial long-term benefits to consumers. We anticipate a similarly positive effect for consumers with respect to the impact of number portability, namely the increased choice and lower prices that result from the competition that number portability helps make possible. We also note that number portability will facilitate number pooling, which will help forestall telephone-number exhaust.⁴⁶

This same analysis applies to number pooling. Like LNP, number pooling is not an access-related service. Consequently, it would be neither logical nor competitively neutral to increase interstate access charges and require the ILECs' IXC customers to pick up the tab for number pooling. The Commission must, therefore, reject completely any cost recovery mechanism that would involve placing number pooling costs in interstate access charges.

As a result, the only alternative is to create an end user charge as the recovery device. Like the Commission, Sprint recognizes that customers are sensitive to new end user charges and is not anxious to increase its ILEC's end user customers' monthly bill. However, the fact remains that there are costs associated with implementing number pooling and it is the end user customer who will ultimately benefit from the new services and service provider choices that number pooling will make possible. Accordingly, Sprint believes that the Commission should permit use of a federal end user charge as the recovery mechanism for number pooling expenses.

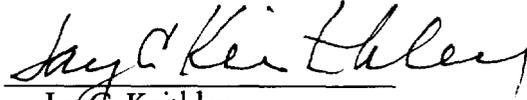
Being cognizant of customer reaction to new charges, Sprint suggests that the simplest way to introduce this new charge is to increase slightly the LNP end user charge already in place. A nominal increase could be easily explained and would, Sprint believes, be more acceptable to customers than the addition of a new monthly line item charge. Perhaps most importantly, this solution allows the

⁴⁶ *In the Matter of Telephone Number Portability*, Third Report and Order, 13 FCC Rcd 11701, 11773-11774 (1998).

admittedly related LNP and number pooling costs to be recovered at one time, keeping the five-year maximum recovery time period intact. Therefore, the line item charge would be eliminated in accordance with the customers' original expectations. For these reasons, Sprint is of the opinion that permitting a slight increase in the current LNP charge is by far the most uncomplicated and customer-friendly method of number pooling cost recovery.

If the Commission is opposed to increasing the LNP charge, the alternative is to permit the ILECs to continue the already tariffed LNP charge for a short time following the original five-year end date. Based on Sprint's preliminary estimates, it suggests that continuing the charge would allow the carriers to quickly and simply complete their cost recovery. Again, this solution is easily implemented - requiring a simple tariff revision - and is more easily explained to customers than the introduction of a new charge for a short period of time.

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CERTIFICATE OF SERVICE

I, Joyce Y. Walker, hereby certify that I have on this 19th day of May 2000, served via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing letter," In the Matter of the Petition of Numbering Resource Optimization, CC Docket No. 99-200, filed this date with the Secretary, Federal Communications Commission, to the persons listed below.


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