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 18 STATE HOUSE STATION  
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WILLIAM M. NUGENT  
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May 18, 2000

VIA FEDERAL EXPRESS

Margalie Salas, Secretary  
 Federal Communications Commission  
 Portals II  
 445 12<sup>th</sup> Street, SW  
 Suite TW-A325  
 Washington, D.C. 20024

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 MAY 19 2000  
 FCC MAIL ROOM

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

Dear Ms. Salas:

Enclosed for filing please find an original and 4 copies of the Maine Public Utilities Commission's Comments in the above-captioned matter.

Sincerely,

*Trina M. Bragdon*  
 Trina M. Bragdon

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Before the  
Federal Communications Commission  
Washington, D.C. 20554

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MAY 19 2000

**FCC MAIL ROOM**

In the Matter of )  
 )  
Numbering Resource Optimization )  
 )

CC Docket No. 99-200

**COMMENTS OF THE  
MAINE PUBLIC UTILITIES COMMISSION**

The Maine Public Utilities Commission (MPUC) submits the following comments in response to the Further Notice of Proposed Rulemaking (FNPRM) contained in the Federal Communication Commission's (FCC) March 31, 2000 Report and Order (Order) in the above-captioned docket.

**I. THE FCC SHOULD ADOPT A 75% UTILIZATION RATE**

In our Opening Comments in response to the Notice of Proposed Rulemaking (NPRM) in this docket, we advocated the adoption of an 80-85% utilization rate range for all carriers. In its Order and FNPRM, the FCC concluded that it will apply utilization rates only to non-pooling carriers at this time and proposed an initial 50% utilization rate with 10% annual increases until it reached 80%. Order at ¶¶ 103, 248. While the MPUC believes that pooling carriers should be included in utilization rate requirements, utilization rate for non-pooling carriers should in any case set high enough to: (1) ensure efficient numbering practices; (2) provide carriers with timely access to numbering resources for which they have demonstrated a proven need; and (3) comport with state experience in the rate of number utilization. We believe the immediate

adoption of a 75% utilization rate with a planned increase to an 80-85% range within the next two years meets all three of these objectives.

**A. Adoption of a 50% standard does not support the efficient use of numbering resources.**

Adoption of a 50% standard will not encourage meaningful conservation of numbering resources, and will have little impact on the numbering crisis. First, even though non-pooling carriers will also be required to meet a six months to exhaust standard in addition to a utilization requirement,<sup>1</sup> it is likely that both the carriers and the North American Numbering Plan Administrator (NANPA) will focus on compliance with the objective fill rate when submitting and reviewing the code application. Indeed, previous comments in this docket have documented the complete lack of scrutiny given to MTE worksheets in the past. The Commission has recognized that these worksheets are inadequate and rely largely on subjective projections by carriers. ¶ 104. Even if the MTE worksheet is reviewed carefully, the determination of the reasonableness of the worksheet will be a subjective judgment call and NANPA has shown little appetite for making such difficult judgment call, especially if the judgment is viewed as adverse to the carriers' demands.

The likelihood that the 6-month inventory standard will not be stringently enforced means carriers will effectively be allowed to carry an extra 5000 numbers (in each rate center) at all times. Such a practice would be wasteful and defeat the overall objectives of the Order. If a 75% utilization rate were adopted, the number of stranded

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<sup>1</sup>All carriers will continue to file months to exhaust (MTE) worksheets for all code and block requests in order to comply with the FCC's requirement that carriers be allowed to carry only a 6-month inventory of numbers at any given time.

resources would be minimized and more efficient numbering practices would be encouraged.

**B. Carriers do not need a 50% utilization standard to ensure timely access to numbering resources.**

Under section 6.1.2 of the Industry Numbering Committee (INC) Central Office Code Assignment Guidelines (Guidelines), a new code can be made effective within 66 calendar days of the application date. It is highly unlikely that any carrier would actually assign 5000 working numbers (50% of the 10,000 allocated in an NXX) in two months. In Maine, during the two years we have been collecting and reviewing utilization data, no carrier has used 5000 new numbers within a 6-month time frame, much less a 66-day time frame. Further, only one carrier has used more than 2500 in 6 months, and then only on two occasions.<sup>2</sup> Thus, the MPUC believes that a 75% utilization rate, in conjunction with provisions for waiver of the utilization rate as explained below, provides carriers with sufficient time to acquire the resources they need.

Wireless carriers often raise seasonality issues to justify excluding them from utilization rates or subjecting them to one that is low. The MPUC suggests that rather than lower the overall rate to meet this special circumstance, the FCC should allow for a waiver of the utilization rate requirement if a carrier is able to demonstrate, through a thoroughly supported MTE worksheet, a *bona fide* need for the resources. For example, a wireless carrier that has traditionally experienced seasonal spikes in its numbering needs could file an MTE worksheet with detailed number utilization

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<sup>2</sup>In Virginia, ILEC line growth data for 1999 ranged from 2.124% in Northern Virginia to 7.5738% in Richmond.

information from the previous year with a request for a waiver of the utilization requirement if it believed that its current numbering resources would exhaust in less than six months even though its utilization rate was currently only 50%. Such an accommodation should satisfy wireless concerns regarding timely access to numbers during peak seasons while preserving an appropriate year-round standard for all carriers.

**C. State adoption of the 75% rate.**

Maine, California, Massachusetts, New Hampshire, and New York have already adopted a 75% fill rate for all carriers. Maine adopted this standard on November 4, 1999, and has had no problems or complaints regarding its application. No carrier has been denied timely access to resources as a result of this standard. Indeed, since its institution, we have only had one application for a growth code – despite earlier forecasts by carriers of the need for many additional growth codes. Thus, we strongly believe that the implementation of the utilization rate, combined with close scrutiny of numbering activities by the Maine Commission, has substantially improved the efficiency of number utilization in Maine and thereby decreased the number of code applications.

The MPUC encourages the FCC to adopt the 75% standard already implemented in five states. It has proven to be fair and effective. Within the next two years, as both the carriers and the number allocation system become capable of accommodating higher utilization rates, the FCC should increase the utilization rate to 80-85%.

**II. THE DEADLINE FOR WIRELESS POOLING SHOULD NOT BE EXTENDED.**

The FCC should continue to require wireless carrier participation in pooling by November 24, 2002. The wireless industry has had more than sufficient notice of the need to make its systems not only LNP-capable but also pooling-capable. There are still more than two years left until the deadline occurs. Wireless carriers must be given every incentive to devote the resources necessary to accomplish this task; they must not be allowed to continue to delay implementation.

**A. Wireless participation in pooling will greatly improve the effectiveness of pooling.**

Wireless participation could have an enormously positive impact on the effectiveness of pooling. In Maine, if wireless carriers were included in our June 1<sup>st</sup> pooling implementation, there would be more than 25% more blocks available in the pool. In California, the contribution would be even greater – more than 40% more blocks. Further, in addition to more blocks, wireless participation lessens the number of full NXXs that must be available in an NPA at the time pooling is implemented. Specifically, a state implementing pooling must ensure that there are enough full NXXs available to meet wireless needs. This condition has caused Massachusetts to abort its pooling trial because there would be insufficient codes available at the time pooling was implemented to meet projected wireless needs. Had wireless carriers been required to participate in pooling, Massachusetts might have been able to proceed with the pooling trial and avoided the implementation of four unnecessary new area codes.

**B. Wireless carriers must be given a firm deadline.**

As the Commission has already seen with wireline carriers, pooling will occur only if a specific implementation deadline is set. The MPUC was initially told by carriers that pooling would not be possible in Maine until at least October 2000, if not later. The MPUC, based upon its own research and analysis, determined that pooling was possible at an earlier date and ordered a start date of June 1, 2000. Carriers then claimed that the costs for such an early implementation would exceed \$10 million. The MPUC conducted its own review and analysis of the cost information and determined that the real cost associated with the June 1, 2000 implementation date was slightly more than \$1 million, and thus we ordered carriers to meet the June deadline. All current indications are that pooling will begin on June 1. We have little doubt, however, that establishing a firm deadline was essential.

Wireless carriers have little motivation to meet the November 2002 deadline, especially if they believe the FCC is receptive to continued requests for extensions. Indeed, now that the FCC has mandated the implementation of pooling for wireline carriers, wireless carriers have business incentives for further delaying wireless pooling. Specifically, if pooling is delayed, wireless carriers will be able to exploit their ability to obtain full NXXs to the competitive disadvantage of wireline carriers, who will only have access to single blocks of numbers. Thus, further delaying pooling violates principles of competitive neutrality and encourages additional foot-dragging by the wireless industry.

Finally, carriers need a clear external deadline to justify the internal allocation of resources needed to meet that deadline, especially if the deadline relates

to a business practice which provides no immediate benefits to the carriers. Most carriers will choose not to allocate resources to number conservation unless they are required. If the FCC is serious about number optimization and conservation, it must clearly and unequivocally mandate that wireless pooling be implemented by November 2002 so that carriers can justify devoting the resources needed to comply.

**C. The FCC should closely examine any claims of technical difficulties.**

The FCC must look very carefully at any claims by wireless carriers that they will not be technically able to pool in November 2002. Carriers must be required to provide specific information to support their assertions and make a showing that their technical difficulties are not caused by a lack attention or resources dedicated to the issue. Specifically, the FCC should examine every claim of technical difficulty closely and determine whether the problems: (1) could be overcome by the commitment of more resources; (2) are the result of willful disregard of earlier orders and deadlines; and/or (3) are not actual limitations by specific carriers but only generalized concerns raised by trade associations. If any of these circumstances exist, the FCC should reject the claim and refuse to extend the deadline.

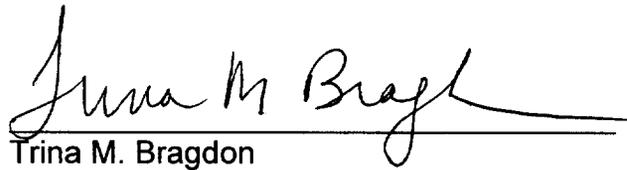
The MPUC doubts that wireless carriers can make a convincing showing that pooling will be technically impossible on November 24, 2002. Thus, we strongly encourage the FCC to confirm its previous orders requiring wireless carriers to be both LNP-capable and pooling-capable by November 24, 2002. To ensure compliance with this directive, the FCC should state clearly that any carrier that fails to meet the requirements will be denied access to numbering resources until it remedies the situation.

III. CONCLUSION

For the reasons explained above, the MPUC urges the FCC to order a 75% utilization rate for non-pooling carriers and to deny any further requests for extensions of time for the implementation of pooling by wireless carriers.

Respectfully submitted,

MAINE PUBLIC UTILITIES COMMISSION

A handwritten signature in black ink, reading "Trina M. Bragdon". The signature is written in a cursive style and is positioned above a horizontal line.

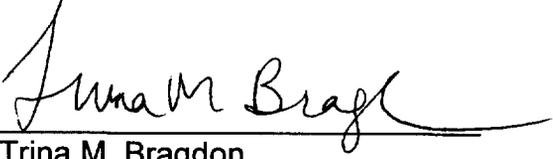
Trina M. Bragdon  
Staff Attorney

242 State Street  
State House Station 18  
Augusta, ME 04333  
(207) 287-1392  
Trina.M.Bragdon@state.me.us

Dated: May 18, 2000

**Certificate of Service**

I, Trina M. Bragdon, certify that on this day the Maine Public Utilities Commission's Comments were served via first-class mail to the persons on the attached service list.

  
Trina M. Bragdon

Dated: May 18, 2000

SERVICE LIST

CC Docket No. 99-200

Chairman William E. Kennard\*  
Federal Communications Commission  
The Portals  
445 12th Street, S.W., 8th Floor  
Washington, DC 20554

Commissioner Harold Furchtgott-Roth\*  
Federal Communications Commission  
The Portals  
445 12th Street, S.W., 8th Floor  
Washington, DC 20554

Commissioner Michael Powell\*  
Federal Communications Commission  
The Portals  
445 12th Street, S.W., 8th Floor  
Washington, DC 20554

Commissioner Gloria Tristani\*  
Federal Communications Commission  
The Portals  
445 12th Street, S.W., 8th Floor  
Washington, DC 20554

Commissioner Susan P. Ness  
Federal Communications Commission  
The Portals  
445 12th Street, S.W., 8th Floor  
Washington, DC 20554

Cynthia B. Miller  
Public Service Commission of Florida  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399

Kathy Brown\*  
Chief of Staff  
Federal Communications Commission  
The Portals  
445 12th Street, S.W., 8th Floor  
Washington, DC 20554

Christopher Wright\*  
General Counsel  
Federal Communications Commission  
445 12th Street, S.W., 8th Floor  
Washington, DC 20554

The Honorable Jack R. Goldberg  
State of Connecticut  
Department of Public Utility Control  
10 Franklin Square  
New Britain, CT 06051

Helen M. Mickiewicz  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

M. Robert Sutherland  
Theodore R. Kingsley  
BellSouth Corporation  
1155 Peachtree Street, NE, Suite 1700  
Atlanta, GA 30309

H. Gilbert Miller  
Mitretek Systems Inc.  
Center for Telecommunications  
and Advanced Technology  
7525 Colshire Drive  
McLean, VA 22102

Michael F. Altschul  
Randall S. Coleman  
Lolita D. Smith  
Cellular Telecommunications Industry Assn  
1250 Connecticut Avenue, NW, Suite 800  
Washington, DC 20036

Russell M. Blau  
Michael R. Romano  
Jeanne W. Stockman  
Attorneys for RCN Telecom Services, Inc.  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, NW, Suite 300  
Washington, DC 20007

Alfred G. Richter, Jr.  
Roger K. Toppins  
SBC Communications, Inc.  
One Bell Plaza, Room 3022  
Dallas, TX 75202

Brian Conboy  
Thomas Jones  
Attorneys for Time Warner Telecom  
Willkie Farr & Gallagher  
1155 21st Street, NW  
Washington, DC 20036

Judith St. Ledger-Roty  
Todd D. Daubert  
Attorneys for Paging Network, Inc.  
Kelley Drye & Warren, LLP  
1200 19th Street, NW, Suite 500  
Washington, DC 20036

Leonard J. Kennedy  
Laura H. Phillips  
Attorneys for Nextel Communications, Inc.  
Dow, Lohnes & Albertson, PLLC  
1200 New Hampshire Ave, NW, Suite 800  
Washington, DC 20036

Delia Reid Saba  
Christopher J. Wilson  
Attorneys for Cincinnati Bell Telephone Co  
201 E. Fourth Street  
Cincinnati, OH 45202

Gregory J. Doyle  
Minnesota Department of Public Service  
121 7th Place East, Suite 350  
St. Paul, MN 55101

Mark C. Rosenblum  
Roy E. Hoffinger  
James H. Bolin, Jr.  
AT&T Corp.  
295 North Maple Avenue  
Basking Ridge, NJ 07920

Lynda L. Dorr  
Public Service Commission of Wisconsin  
610 North Whitney Way  
Madison, WI 53707

Carl K. Oshiro  
Attorney for  
Small Business Alliance for Fair  
Utility Regulation  
100 First Street, Suite 2540  
San Francisco, CA 94105

James Bradford Ramsay  
NARUC Assistant General Counsel  
NARUC  
1100 Pennsylvania Avenue, NW, Suite 603  
Washington, DC 20044

Robert H. Bennink, Jr.  
Erin K. Duffy  
North Carolina Utilities Commission  
430 N. Salisbury Street  
Raleigh, NC 27603

Richard L. Jones  
c/o Loves Park 9-1-1  
540 Loves Park Drive  
Loves Park, IL 61111

Susan M. Edi  
Richard A. Karre  
Tina S. Pyle  
MediaOne Group, Inc.  
1919 Pennsylvania Ave, NW, Suite 610  
Washington, DC 20006

Jonathan E. Canis  
Enrico Soriano  
Attorneys for  
voiceStream Wireless Corporation  
1200 19th Street, NW, 5th Floor  
Washington, DC 20036

Karlyn D. Stanley  
Attorney for Centennial Cellular Corp.  
Cole Raywid & Braverman, LLP  
1919 Pennsylvania Ave, NW, Suite 200  
Washington, DC 20006

Mark J. Burzych  
Attorney for Thumb Cellular  
Foster Swift Collins & Smith, PC  
313 South Washington Square  
Lansing, MI 48933

Susan W. Smith  
CenturyTel Wireless, Inc.  
3505 Summerhill Road  
No. 4 Summer Place  
Texarkana, TX 75501

Kenneth E. Hardman  
Attorney for Trillum Cellular Corp.  
Moir & Hardman  
1828 L Street, NW, Suite 901  
Washington, DC 20036

Werner K. Hartenberger  
J.G. Harrington  
Attorneys for Cox Communications, Inc.  
Dow, Lohnes & Albertson, PLLC  
1200 New Hampshire Avenue, NW  
Suite 800  
Washington, DC 20036

David E. Screven  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105

John McHugh  
Stuart Polikoff  
OPASTCO  
21 Dupont Circle NW, Suite 700  
Washington, DC 20036

Lawrence G. Malone  
New York Department of Public Service  
Three Empire State Plaza  
Albany, NY 12223

Larry A. Peck  
Counsel for Ameritech  
2000 West Ameritech Center Drive  
Hoffman Estates, IL 60196

James R. Hobson  
Attorney for NENA  
Donelan, Cleary, Wood & Master, PCD  
1100 New York Avenue, NW, #750  
Washington, DC 20005

Richard A. Muscat  
The Gonzalez Law Firm, PC  
One Westlake Plaza  
1705 S. Capital of Texas Hwy, #100  
Austin, TX 78746

Larry A. Blosser  
Kernal Hawa  
Attorneys for Connect Communications  
Corp.  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, NW, Suite 300  
Washington, DC 20007

William Irby  
Division of Communications  
Virginia State Corporation Commission  
Tyler Building  
1300 E. Main Street  
Richmond, VA 23219

John M. Goodman  
Attorney for Bell Atlantic  
1300 I Street, N.W., Suite 400 West  
Washington, DC 20005

Joe H. Cheskis, Counsel for  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5th Floor  
Harrisburg, PA 17101

Mary McDermott  
Robert L. Hoggarth  
Personal Communications Industry Assn.  
500 Montgomery Street, Suite 700  
Alexandria, VA 22314

John F. Raposa  
GTE Service Corporation  
600 Hidden Ridge, HQE03J27  
P.O. Box 152092  
Irving, TX 75015

Mary A. Keeney  
Assistant Attorney General  
Natural Resources Division  
P.O. Box 12548, Capitol Station  
Austin, TX 78711

Larry Strickling\*  
Chief, Common Carrier Bureau  
Federal Communications Commission  
The Portals  
445 12th Street, S.W.  
Washington, DC 20554

Yog Varma\*  
Federal Communications Commission  
The Portals  
445 12th Street, S.W.  
Washington, DC 20554

Jeannie Grimes\*  
Federal Communications Commission  
The Portals  
445 12th Street, S.W.  
Washington, DC 20554

Robert Atkinson\*  
Federal Communications Commission  
The Portals  
445 12th Street, S.W., 5th Floor  
Washington, DC 20554

Diane Griffin Harmon\*  
Federal Communications Commission  
The Portals  
445 12th Street, S.W.  
Washington, DC 20554

Tejal Mehta\*  
Federal Communications Commission  
The Portals  
445 12th Street, S.W.  
Washington, DC 20554

International Transcription Services\*  
1231 20th Street, N.W.  
Washington, DC 20036

Teresa K. Gaugler  
Jane Kunka  
Qwest Communications Corporation  
4250 North Fairfax Drive  
Arlington, VA 22203

Richard A. Askoff  
Regina McNeil  
National Exchange Carrier Assn., Inc.  
100 South Jefferson Road  
Whippany, NJ 07981

The Honorable Raymond L. Gifford  
Colorado Public Utilities Commission  
1580 Logan Street, Office Level 2  
Denver, CO 80203

Marc D. Poston  
William K. Haas  
Missouri Public Service Commission  
301 West High Street, Room 750  
Jefferson City, MO 65101

Emily M. Williams  
ALTS  
888 17th Street, NW, Suite 900  
Washington, DC 20006

John W. Hunter  
Lawrence E. Sarjeant  
Linda L. Kent  
USTA  
1401 H Street, NW, Suite 600  
Washington, DC 20005

The Honorable Donald L. Dear  
City of Gardena  
1700 West 162nd Street  
Gardena, CA 90247

Bob Pinzler  
South Bay Cities Council of Govt.  
5033 Rockvalley Road  
Rancho Palos Verdes, CA 90275

Richard Eyre  
REC Networks  
P.O. Box 2408  
Tempe, AZ 85280

Reginald N. Todd  
Chief Legislative Representative  
County of Los Angeles  
440 First Street, NW, Suite 440  
Washington, DC 20001

The Honorable Dee Hardison  
City of Torrance  
3031 Torrance Boulevard  
Torrance, CA 90509

Theresa Fenelon Falk  
Attorney for Saco River Telegraph &  
Telephone Company  
Pillsbury Madison & Sutro, LLP  
1100 New York Avenue, NW, 9th Floor  
East  
Washington, DC 20005

Edward A Yorkgitis, Jr.  
Attorney for Liberty Telecom LLC  
Kelley, Drye & Warren, LLP  
1200 19th Street, NW, Suite 500  
Washington, DC 20036

Marsha N. Cohen  
2201 Lyon Street  
San Francisco, CA 94115

Richard C. Bartel  
Communications Venture Service, Inc.  
P.O. Box 11555  
Washington, DC 20008

Peggy Arvanitas  
c/o MAX Firest Class  
621 Bypass Drive  
Clearwater, FL 33764

Douglas F. Carlson  
P.O. Box 12574  
Berkeley, CA 94712

Michael A. Sullivan  
15 Spencer Avenue  
Somerville, MA 02144

Gilbert Yablon  
SMART Dialing Systems  
21914 Dumetz Road  
Woodland Hills, CA 91364

William Neill  
P.O. Box 33666  
San Diego, CA 92163

Hugh R. Burrows  
The BURROWS Resource Group Inc.  
P.O. Box 5000  
Lanark, Ontario  
Canada K0G 1K0

Barclay Johnson  
New Hampshire Public Utilities  
Commission  
8 Old Suncook Road  
Concord, NH 03301

Kevin Penders  
Dept. Of Telecommunications & Energy  
One South Station, 2nd Floor  
Boston, MA 02110

James S. Blaszak  
Attorney for The Ad Hoc  
Telecommunications Users Committee  
Levine, Blaszak, Block & Boothby, LLP  
2001 L Street, NW, Suite 900  
Washington, DC 20036

Jonathan Chambers  
Sprint PCS  
1801 K Street, NW, Suite M112  
Washington, DC 20006

Pamela J. Riley  
David A. Gross  
AirTouch Communications, Inc.  
1818 N Street, NW, Suite 800  
Washington, DC 20036

John F. Farmer, Jr.  
Attorney for the  
New Jersey Board of Public Utilities  
124 Halsey Street - 5th Floor  
P.O. Box 45029  
Newark, NJ 07101

L. Marie Guillory  
Jill Canfield  
National Telephone Cooperative  
Association  
4121 Wilson Blvd, 10th Floor  
Arlington, VA 22203

Daniel M. Waggoner  
Robert S. Tanner  
Jane Whang  
Davis Wright Tremaine LLP  
1155 Connecticut Ave, NW, Suite 700  
Washington, DC 20036

Thomas S. Hunter  
Melissa Caro  
Texas Office of Public Utility Counsel  
1701 N. Congress Avenue, Suite 9-180  
Austin, TX 78701