COMMONWEALTH OF PENNSYLVANIA

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048

IRWIN A. POPOWSKY
Consumer Advocate

FAX (717) 783-7152
E-Mail: paoca@ptd.net

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May 19, 2000

Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street, S. W.
Washington, DC 20554

In the matter of: Numbering Resource Optimization
CC Docket No. 99-200

Dear Ms. Salas:

Enclosed please find an original and four copies of the foregoing Joint Consumer Comments in the above-referenced matter. Please also note that these Comments have been filed with the Commission electronically.

Please indicate your receipt of this filing on the additional copy provided and return it to the undersigned in the enclosed self-addressed, postage prepaid, envelope. Thank you.

Sincerely yours,

Joel H. Cheskis
Assistant Consumer Advocate

Enclosure
cc: International Transcription Services

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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Numbering Resource Optimization	)	**CC Docket No. 99-200**
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JOINT COMMENTS OF

PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE
TEXAS OFFICE OF PUBLIC UTILITY COUNSEL
MISSOURI OFFICE OF PUBLIC COUNSEL
FLORIDA OFFICE OF PUBLIC COUNSEL
DISTRICT OF COLUMBIA OFFICE OF PEOPLE'S COUNSEL
CALIFORNIA OFFICE OF RATEPAYER ADVOCATES
THE UTILITY REFORM NETWORK
MARYLAND OFFICE OF PEOPLE'S COUNSEL
MAINE PUBLIC ADVOCATE
INDIANA OFFICE OF UTILITY CONSUMER COUNSEL

Economic Consultants:

Lee L. Selwyn
Douglas S. Williams
Economics and Technology, Inc.
One Washington Mall
Boston, MA 02108-2617
(617) 227-0900

May 19, 2000

Pennsylvania Office of Consumer Advocate
555 Walnut Street, 5th Floor Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048

Missouri Office of Public Counsel
P.O. Box 7800
Jefferson City, MO 65102
(573) 751-4857

Florida Office of Public Counsel
c/o Florida Legislature
111 West Madison Street, #812
Tallahassee, FL 32399-1400
(850) 488-9330

Indiana Office of Utility Consumer Counsel
100 N. Senate Avenue, Room N501
Indianapolis, IN 46204-2215
(317) 232-2494

Maryland Office of People's Counsel
6 St. Paul Street, Suite 2102
Baltimore, MD 21202
(410) 767-8150

Texas Office of Public Utility Counsel
1701 N. Congress Avenue, Suite 9-180
Austin, TX 78701
(512) 936-7500

The Office of People's Counsel
District of Columbia
1133 15th Street NW, Suite 500
Washington, D.C. 20005-2710
(202) 727-3071

California Office of Ratepayer Advocates
505 Van Ness Avenue, Room 4202
San Francisco, CA 94102
(415) 703-2544

The Utility Reform Network
711 Van Ness Avenue, Suite 350
San Francisco, CA 94102
(415) 929-1132

Maine Public Advocate
State House Station 112
Augusta, ME 04333
(207) 287-2445

I. INTRODUCTION AND SUMMARY

The Pennsylvania Office of Consumer Advocate is statutorily authorized to represent the interests of Pennsylvania consumers before the Pennsylvania Public Utility Commission and other state and federal agencies and courts in matters involving utility service. 71 P.S. Section 309-1 et seq.

The Texas Office of Public Utility Counsel represents residence and small business consumers in Texas in telephone proceedings before the Texas Public Utility Commission, the Federal Communications Commission, and in various state and federal courts. Texas Utilities Code, Section 13.001 et. seq. (Vernon 2000).

The Missouri Office of Public Counsel is authorized to represent the public before regulatory agencies and the courts. Section 386.700 et seq. RSMo.

The Office of the People's Counsel District of Columbia is an independent agency of the District of Columbia government created by an act of Congress to serve as the District's legal advocate for utility consumers. As the only statutory party of right, the Office represents the interests of District ratepayers in all utility-related proceedings before the Public Service Commission and federal regulatory agencies and commissions. D.C. Code Ann. Section 43-406(d) (1998).

The Florida Office of Public Counsel, in accordance with Section 350.0611, Florida Statutes (1999), is authorized to provide legal representation for the people of the state in proceedings before the Florida Public Service Commission. In connection with these duties, the Public Counsel may appear in the name of the state or its citizens before other state agencies, federal agencies, and state and federal courts.

The California Office of Ratepayer Advocates represents all public utility customers as an

independent party in Commission proceedings to obtain the lowest possible rate for service that is reliable and safe. (California Public Utilities Code 309.5).

The Utility Reform Network (TURN) is a statewide California nonprofit consumer group that has represented the interests of California utility customers for over 25 years. TURN represents Californians on utility-related proceedings before the California Public Utilities Commission, state and federal legislatures and federal regulatory agencies.

The Maryland Office of People's Counsel is an independent state agency mandated to represent the interest of residential and noncommercial users of gas, electricity, telephones or water and sewerage. The Office of People's Counsel may appear before any federal or State unit to protect the interests of residential and noncommercial users. Md. Code Ann., §§ 2-201–2-205 (1999).

The Maine Public Advocate is an official of the State of Maine charged by the Legislature with representing consumers of utility services in Maine. The Public Advocate represents the interests of all public utility ratepayers in this State in proceedings before the Maine Commission, the Federal Energy Regulatory Commission, the Federal Communications Commission and the courts.

The Indiana Office of Utility Consumer Counsel is a statutory agency of the State of Indiana duly authorized to represent Indiana utility consumers in federal and state proceedings, including proceedings before the Federal Communications Commission. Indiana Code Section 8-1-1.1-9.1.

The Pennsylvania Office of Consumer Advocate, Missouri Office of the Public Counsel, Texas Office of Public Utility Counsel, District of Columbia Office of People's Counsel, Florida Office of Public Counsel, California Office of Ratepayer Advocates, The Utility Reform Network, Maryland Office of People's Counsel, Maine Public Advocate and the Indiana Office of Utility

Consumer Counsel (hereinafter referred to as Consumer Commenters) recognize the significant costs to society of bringing more and more area codes on-line, both in terms of immediate financial costs to carriers and end users, as well as the more significant consequences of exhausting the current stock of area codes in the North American Numbering Plan (NANP). Consumer Commenters urge the Commission to adopt numbering policies that will (a) provide for the efficient use of available numbering resources; (b) prevent the need for NANP exhaust; (c) protect business and residential consumers from bearing the costs of such numbering solutions; and (d) support the development of local competition by assuring an adequate supply of numbers to all service providers with a legitimate need therefor.

All of these concerns demand and deserve full Commission attention, and no industry segment should be afforded preemptive treatment or undue priority in addressing the nation's numbering crisis. Consumer Commenters submit that despite the Commission's commendable efforts to ensure the maximum development of competition, the costs of area code proliferation to consumers and society have escalated. We respectfully submit that the costs related to receiving numbering resources may be exacerbated unless additional action as discussed below is taken.[1]

In follow-up to its Notice of Proposed Rulemaking (Notice),[2] on March 31, 2000 the FCC

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1. In Pennsylvania, the addition of new area codes has not resolved the problem associated with area code exhaust. For example, two new area codes are about to be implemented in the 215/267 and 610/484 overlaid region in southeastern Pennsylvania even though the utilization rate in the 267 NPA is only 6% and the utilization rate in the 484 NPA (which is currently in jeopardy) is only in 4%. Pennsylvania Public Utility Commission's Supplement to its Petition for Delegated Authority to Implement Number Conservation Measures, CC Docket No. 96-98 (April 25, 2000) (filed pursuant to paragraph 170 of the March 31, 2000 Report and Order).

2. In the Matter of Numbering Resource Optimization, CC Docket 99-200, *Notice of Proposed Rulemaking*, FCC 99-122, adopted May 27, 1999 (Notice).

adopted a Report and Order and Further Notice of Proposed Rulemaking in CC Docket 99-200 (Order and FNPRM).[3] In the Order and FNPRM, the Commission sought comment on four specific issues. These comments contain Consumer Commenters' position on the following:

- *Number Utilization*: Consumer Commenters submit that utilization thresholds should only be required at the rate center level when determining the need for growth codes for carriers not participating in thousands-block number pooling.

- *Pooling for Non-LNP-Capable Carriers*: Consumer Commenters see little justification in extending the implementation horizon for pooling beyond the November, 2002 forbearance period for the implementation of local number portability by CMRS carriers.

- *Pricing for Numbers*: Consumer Commenters are unconvinced that a market-based allocation system for numbers can be implemented in a nondiscriminatory fashion at the present time.

- *Recovery of Shared Industry and Direct Carrier-Specific Costs*: Consumer Commenters submit that the costs of pooling pale in comparison to the costs associated with the continued introduction of area codes, both in terms of the financial and societal costs imposed upon business and residential consumers as well as the significant costs that will be incurred (by carriers and end users alike) should expansion of the NANP become necessary. Consumer Commenters submit that the costs associated with the implementation of thousands-block pooling are properly considered to be part of the evolution of the public switched telephone network, and that such costs should be borne by carriers *without* the benefit of recovering such costs through yet another end user surcharge.

The Commission should consider these arguments when drawing conclusions to the questions raised in the current Further Notice of Proposed Rulemaking.

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3. In the Matter of Numbering Resource Optimization, CC Docket 99-200, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 00-104, adopted March 17, 2000 (Order and FNPRM).

II. UTILIZATION THRESHOLD

A. Discussion of Issue

The FCC, in an effort to ensure that all carrier requests for numbers are "need-based," concluded that non-pooling carriers shall be subject to a nationwide utilization threshold when seeking "growth codes."[4] The implementation date for adopting a specific utilization threshold is January 1, 2001.[5] The FCC determined that as a general matter, when seeking growth codes, carrier utilization calculated on a rate center-basis is preferred to the utilization calculated over a broader geographic region, such as a Numbering Plan Area (NPA), because it "more accurately reflects how numbering resources are assigned."[6] The FCC also determined that the utilization level in a given rate center "should be calculated by dividing all *assigned numbers* (numerator) by total numbering resources assigned to that carrier in the appropriate geographic region (denominator), and multiplying the result by 100."[7]

What the FCC refrained from establishing, and currently seeks comment on, is (1) what

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4. Order and FNPRM, at para. 115.

5. *Id.*

6. *Id.*, at para. 105.

7. *Id.*, at para. 109. The FCC has defined *assigned numbers* as "numbers working in the Public Switched Telephone Network under an agreement such as a contract or tariff at the request of specific customers for their use, or as numbers not yet working but having a customer service order pending." *Id.*, at para.16 (footnote omitted). The FCC also states that *intermediate numbers*, which include numbers provided for use by resellers and dealers, numbers preprogrammed into customer premises equipment, and numbers assigned to messaging service providers, should not be treated as assigned numbers to the extent that they have not been assigned to a specific end user. *Id.*, at para. 21. Once these numbers are assigned to a specific end user, however, the carrier making them available for assignment should categorize them as assigned numbers. *Id.*, at para. 17 (footnotes omitted).

specific utilization rate for non-pooling carriers should be adopted; and (2) what is the rationale for these levels?[8] Acknowledging the significant range of proposed utilization levels advocated by commenting parties responding to the Notice,[9] the FCC tentatively concluded that the initial "nationwide utilization threshold for growth numbering resources" be set at 50%, with annual increases of 10% until the utilization level reaches its maximum value of 80%.[10] The FCC also seeks comment on what utilization level should be adopted at the rate center level, whether a range of utilization levels should be adopted, and whether state commissions should be permitted to set those levels, and on what basis such a decision should be made.[11]

B. Recommendation

The utilization rate that is ultimately adopted by the FCC must be set high enough so as to accomplish the goal of number conservation, i.e., to eliminate the stockpiling and hoarding of numbers in particular rate centers or NPAs. At the same time, the utilization rate should not be set so high as to jeopardize the ability of carriers to obtain numbers in a timely manner, as this could impact the ability of new entrants to provide competitive alternatives to business and residential consumers.

The FCC tentatively sets a beginning "nationwide utilization threshold" for non-pooling carriers of 50% in concert with 10% annual increases up to a maximum level of 80%. The FCC then proposes to require non-pooling carriers to meet specific rate center-based utilization rates as well,

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8. *Id.*, at para. 248.

9. *Id.*, at para. 115.

10. *Id.*, at para. 248

11. *Id.*

yet refrains from setting such specific rates.[12] By distinctly refraining from setting rate-center based utilization rates, the FCC has implied that its tentative "nationwide utilization threshold" plan is to apply to some larger, yet not specifically designated, geographic area, such as an NPA (or worse, a carrier's national footprint). Since the geographic basis upon which utilization levels are to be calculated is still open for debate, Consumer Commenters submit that such calculations should be made at the rate center level rather than at the NPA level. The FCC makes various findings that also support the use of rate center utilization rates when determining the need for growth codes.[13] The FCC, in requiring rate center-based utilization, states that

> ...it more accurately reflects how numbering resources are assigned. NPAs can cover large service areas with widely differing characteristics (*e.g.* urban, rural). Further, rate center-based utilization data may give state commissions additional information on which to evaluate rate center consolidation. Moreover, rate center-based utilization allows carriers to obtain numbering resources in response to specific customer demands. 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.*[14]

Based on the reasoning provided by the Commission, it is counter-intuitive to impose a "nationwide utilization threshold" rather than a rate center-based utilization threshold when applying for growth codes. In fact, two potential pitfalls exist if utilization rates are calculated solely at the NPA level:

(1) A carrier could be unable to request additional codes because its utilization level across the NPA is below the threshold, despite the fact that utilization in specific rate

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12. *Id.*, at para. 248.

13. *Id.*, at para. 104.

14. *Id.*, at para. 105, footnotes omitted, emphasis supplied.

centers may demonstrate that additional numbers are needed. Suppose a carrier serves three rate centers in a single NPA, holds a single NXX code in each rate center, and serves 1,000 customers in rate center A, 1,000 customers in rate center B, and 9,000 customers in rate center C. On an NPA basis, the carrier has a utilization rate of 37% ([1,000+1,000+9,000] ÷ 30,000), and therefore does not qualify for growth codes, regardless of the fact that rate center C is approaching full deployment of its numbers.

(2) A carrier's NPA-wide utilization level could permit it to request new numbers in *all* of its rate centers even if only certain individual rate centers demonstrate a need for new numbers. Consider a similar situation, with rate centers A and B having higher utilization rates, such that the carrier serves 3,000 customers in rate center A and 3,000 customers in rate center B. On an NPA basis, the carrier has a utilization rate of 50% ([3000+3000+9000] ÷ 30,000), and therefore qualifies, under the Commission's proposed plan, to request new growth codes *for all three rate centers*, even though only rate center C is in need of more numbers.

In light of these potential hazards, coupled with the obvious benefits associated with rate center-based utilization rates, Consumer Commenters submit that it is nonsensical to implement a plan to assess number utilization at the NPA level. Therefore, the Commission should simply determine and adopt appropriate rate center-based utilization levels, as these levels provide the necessary level of detail relating to customer demand in a focused area.

Consumer Commenters submit that the Commission adopt a nationwide utilization level that is based on assignment of numbers at the rate center level. The initial threshold should be set at 65%, with annual increases of 5% until it reaches 85%. Consumer Commenters also submit that state commissions should be permitted some level of input as to the actual utilization level imposed on particular regions. In an effort to conserve more numbers, state commissions might see the need to set utilization levels in more urban rate centers at higher levels prior to granting growth codes, while such concerns might not be so great in more rural areas. For this reason, Consumer Commenters support the implementation of a range of rate center utilization levels, the upper bound

of which would be set 10% above the baseline level, with the authority granted to state commissions to set the rate center-based utilization level within that range.

Consumer Commenters submit that the initial threshold for rate center-based utilization rates is reasonably set at 65%. Based on utilization data collected in Missouri,[15] the Missouri OPC has found that wireline and wireless carriers in metropolitan regions of Missouri have demonstrated the ability to exceed a 65% utilization rate at the NPA level and often exceed 65% at the rate center level. It is certainly reasonable to expect non-pooling incumbent local exchange carriers (ILECs), wireless carriers[16] and new entrants alike to have the ability to achieve utilization of 65% at the rate center level prior to needing additional numbering resources.

Consumer Commenters also submit that the upper bound of the proposed initial range for a rate center-based utilization threshold selected by a state commission is appropriately set at 75%, based upon utilization rates adopted in other states. In particular, by order of the California Public Utilities Commission, California has adopted a 75% rate center-based utilization rate for all blocks of numbers held by a carrier at the rate center level.[17] In addition, in New York, carriers are required to demonstrate a 75% utilization rate prior to the New York Public Service Commission's review

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15. Data was collected at the rate center level.

16. While it might be intuitive to expect wireless carriers to achieve higher utilization rates based on the fact that they do not require batches of numbers in every rate center in their geographic footprint, the research conducted by the Missouri OPC has shown that wireless utilization rates are not necessarily higher than incumbent landline carriers.

17. Order Instituting Rulemaking on the Commission's Own Motion into Competition for Local Exchange Service, Opinion, Rulemaking 95-04-043 (filed April 26, 1995).

for new code requests.[18] The Massachusetts Department of Telecommunications and Energy has also recently adopted a 75% fill-rate requirement for all carriers in order to obtain growth codes.[19] Based on the fact that these utilization levels have been adopted in other states, Consumer Commenters conclude that 75% represents a reasonable upper bound for the initial range of utilization rates within which state commissions should have the authority to set the actual rate.

The Commission should be satisfied that the 5% annual growth rate in the rate center utilization threshold proposed by Consumer Commenters is realistic, and likely quite conservative. Historically, incumbent LECs have realized an annual growth in access lines of about 4%,[20] which means the total numbering resources of incumbent carriers that do not receive additional codes under the new, stricter FCC requirements could reasonably be expected to erode at about 4% per year. Thus, incumbent LECs' utilization rates may likely increase by 4% per year *without any conscious attempt at becoming more efficient.* Therefore, 5% is a very reasonable level at which to set the annual growth in baseline utilization for non-pooling carriers.

The Consumer Commenters proposed range in utilization levels would be increased 5%

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18. Proceeding on Motion of the Commission Pursuant to Section 97(2) of the Public Service Law, to Institute an Omnibus Proceeding to Investigate the Efficiency of Usage of Telephone Numbering Resources and to Evaluate the Options for Making Additional Central Office Codes and/or Area Codes Available in Areas of New York State When and Where Needed, Order Instituting State-Wide Number Pooling and Number Assignment and Reclamation Procedures, Docket No. 98-C-0689 (issued March 17, 2000).

19. Number Pooling, D.T.E. 99-99 (January 26, 2000 Letter Order).

20. Federal Communications Commission, Common Carrier Bureau, Industry Analysis Division, *Statistics of Common Carriers*, 1995-1998, Table 2.10; 1999 ARMIS 43-08, Table 2.

annually, with a high end range at 85%.[21] While an 85% utilization level may at first appear to be somewhat high, it is important to keep in mind that (1) use of this utilization rate will be at the discretion of the states, and authority to set utilization at this level will not be available until January, 2003; (2) this level only applies to non-pooling carriers that are not constrained by a need for at least one code per rate center; (3) attaining such utilization levels will not be an issue for carriers operating in rural areas where no competition exists; and (4) employment of this utilization level will not be possible until a full year after CMRS carriers are to be capable of implementing of thousands-block pooling. In addition, Consumer Commenters have reason to believe that carriers in some metropolitan rate centers may already be achieving utilization rates at this level today. The Commission should not hesitate in setting a range of utilization rates that permits states to be aggressive in conserving numbers, particularly given the fact that it will take some time to implement thousands-block pooling across the country.

Consumer Commenters also submit that states should be given the authority to assess and grant special requests for additional codes made by individual carriers that might not have reached the pre-defined utilization level in a particular rate center.

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21. Based on the FCC's order that the utilization rate for non-pooling carriers be set beginning January 1, 2001, the high end of the range will be reached in January, 2003, while the low end of the range will be reached in January, 2004. *Id.*, at para. 115.

III. IMPLEMENTATION OF POOLING FOR NON-LNP-CAPABLE CARRIERS

A. Discussion of Issue

As per the Commission's CMRS LNP Forbearance Order, CMRS providers were granted until November 24, 2002 to implement local number portability.[22] In reaching this conclusion, the FCC determined that extending the deadline would (1) give the industry "time to develop and deploy the technology that will allow viable implementation of number portability, including the ability to support seamless nationwide roaming,"[23] and (2) be "consistent with the public interest for competitive reasons because it would give CMRS carriers greater flexibility to complete network buildout, technical upgrades and other improvements which will enhance service and promote competition."[24]

In the current Order and FNPRM, the FCC has ordered the implementation of thousands-block number pooling for all LNP-capable carriers.[25] The FCC refrained from ordering non-LNP-capable carriers to speed up their implementation of LNP for the sole purpose of implementing number pooling, as such a requirement would "necessitate substantial effort and expense."[26] However, the FCC did seek further comment on whether "covered" CMRS carriers[27] be required

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22. CMRS LNP Forbearance Order, 14 FCC Rcd at 3092.

23. Order and FNPRM, at para. 136, citing Telephone Number Portability First Report and Order, 11 FCC Rcd at 8440.

24. *Id.*, at para. 136, citing CMRS Forbearance Order, 14 FCC Rcd at 3104-05.

25. *Id.*, at para. 125.

26. *Id.*, at para. 137 (footnote omitted).

27. "Covered" CMRS carriers refers to broadband Personal Communications Service (PCS), cellular and 800/900 MHz Specialized Mobile Radio (SMR) licensees that (1) hold geographic area

to participate in pooling immediately upon expiration of the November, 2002 forbearance period, or whether it was appropriate to institute a transition period for compliance.[28]

B. Recommendation

Consumer Commenters agree with the Commission's finding that a thousands-block number pooling plan that includes all LNP-capable carriers will be more effective, efficient and equitable than a plan that excludes certain carriers,[29] and wholeheartedly supports the FCC's position that "it is in the public interest to require covered CMRS service providers to participate in thousands-block number pooling once they have acquired LNP capability."[30] Any delay in requiring covered CMRS carriers to participate in number pooling would only contribute to the already rapid exhaust of the NANP.[31]

Further, as referenced by the Commission, the need for such a transition period is lessened by the simple fact that, given the early notice for implementing thousands-block pooling, covered

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licenses or are incumbent SMR wide area licensees, and (2) offer real-time, two-way switched voice service, are interconnected with the public switched network, and utilize an in-network switching facility that enables such CMRS systems to reuse frequencies and accomplish seamless hand-offs of subscriber calls. 47 C.F.R. § 52.21(c).

28. *Id.*, at para. 249.

29. The Commission states that "[t]housands-block number pooling will realize the greatest savings in NXX code usage when the majority of the users of numbering resources receive their numbers in thousands-blocks, instead of blocks of 10,000." *Id.*, at para. 125.

30. *Id.*, at para. 139.

31. As demonstrated by NANP Administrator Lockheed Martin CIS (now NeuStar, Inc.), number pooling is most effective in stemming exhaust of the NANP when it is employed by all carriers. Lockheed Martin CIS, *Number Utilization Forecast and Trends*, February 18, 1999 (Number Utilization and Trends), at 20-21.

CMRS carriers will have a "lead time" of *more than 2 years* to prepare for and implement pooling.[32] Current LNP-capable carriers subject to the initial implementation of number pooling are only given a 6-month period over which to ready themselves for pooling,[33] while subsequent scheduling will provide just 90 days' notice.[34]

Although the FCC states that it "has not been provided with any information on the record in this proceeding that would lead us to conclude that wireless (or wireline) service providers can implement thousands-block number pooling prior to acquiring LNP capability,"[35] it is the Consumer Commenters understanding that non-LNP-capable CMRS carriers may be able to "accept" less than full 10,000-number NXX blocks from a pool without themselves having to port numbers back to the pool.[36] This could be accomplished by taking blocks of 1,000 numbers of an NXX code where the

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32. Order and FNPRM, at para. 249.

33. *Id.*, at para. 161.

34. *Id.*, at para. 166.

35. *Id.*, at para. 136.

36. Consumer Commenters are aware that Nortel Networks has submitted a proposal to the Industry Numbering Committee (INC) in which he proposes that the first digit of the station number (XXXX) be appended to the central office code (currently NXX) and that this new expanded 4-digit central office code (NXXX) be used to define the rate center to which the number has been assigned. Thus, 412-234-5678 would be rewritten as 412-2345-678, with '2345' representing the rate center in the 412 NPA. Under this approach, the same 3-digit NXX code could, under 1,000-block pooling, be assigned in multiple rate centers. The problem, of course, is that this arrangement could only be applied *prospectively* to completely vacant NXX codes. Its adoption even for that limited use would, however, substantially increase the effectiveness of number pooling, because one NXX code could then be shared among up to ten rate centers. Under such an arrangement, the Commission could authorize the issuance of 1,000 blocks in such multi-rate center NXXs at lower utilization thresholds than under the existing arrangement. *See* "Redefine Format of Existing 10 Digit NANP," INC ISSUE # 230, submitted February 28, 2000. Consumer Commenters neither endorse nor reject this proposal at this time but raise the point only to support that non-LNP capable carriers may be able to "accept" less than full 10,000-number NXX blocks from a pool without themselves having to port

LRN is assigned to an LNP-capable wireline LEC and porting these to the CMRS provider. As long as not more than one CMRS provider is assigned numbers with the same NPA-NXX under this approach, there is no reason why this method could not be adopted as an interim method for extending the benefits of pooling to otherwise non-participating CMRS carriers. Given the availability of this solution, the FCC should reject any pleas to the contrary and require CMRS providers to implement pooling immediately following the expiration of the forbearance period for LNP.

IV. PRICING FOR NUMBERS

A. Discussion of Issue

In the Notice, the Commission sought comment on pricing options for numbering resources.[37] In the Order and FNPRM, the Commission seeks further comment on how a market-based number allocation system could be implemented, how it would affect the efficiency of allocating numbers among carriers, and whether and how funds collected could be used to offset other payments carriers make, such as universal service or Telecommunications Relay Services (TRS) programs.[38]

The Commission expresses its belief that pricing is the "most pro-competitive, least intrusive way of ensuring that numbering resources are efficiently allocated."[39] The Commission suggests that competitive concerns are now moot given the adoption of thousands-block pooling. New entrants

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numbers back to the pool.

37. Notice, at paras. 225-240.

38. Order and FNPRM, at para. 251.

39. *Id.*

will no longer have to acquire numbers in block of 10,000 and thus will no longer be faced with a large, costly barrier to entry.

B. Recommendation

The Commission should clearly not implement a pricing scheme at this time. The adoption of thousands-block pooling, utilization rates for growth codes, and mandatory reporting requirements all have the potential to significantly increase the efficiency with which carriers use numbering resources. As noted by the Commission, these adopted policies will "promote the efficient allocation and use of NANP resources by tying a carrier's ability to obtain numbering resources more closely to its actual need for numbers to serve its customers."[40] The adoption of a policy whereby carriers are required to "pay" for number resources, on the other hand, would represent a radical departure from long-standing industry practice, and is therefore one that requires careful examination both of its potential goals as well as its pitfalls. In fact, in suggesting such an arrangement, the Commission has generally failed to articulate precisely what specific purposes would be served. The FNPRM speaks generally about "efficiency" and "competitive neutrality" as resulting from such an arrangement, but is largely silent as to the how a policy of imposing charges for number resources would produce a superior outcome than other approaches. Several possible objectives may nevertheless be hypothesized and examined:

- *Encourage efficiency in requests for and use of numbering resources.* The idea here seems straightforward enough: if people have to pay for something, they are less likely to waste it than if they get it for free. Intuitively, this may be true; however, in order for this goal to be achieved there must be some demonstrated linkage between the present highly wasteful use of numbers and the fact that carriers do not pay for them. In fact, the source of the extreme waste is the process by which

40. Order and FNPRM, at para. 5.

numbers are and will continue to be assigned to carriers, not the fact that numbers are allocated without specific charge to carriers. CLECs have been asking for number assignments in less than full NXX 10,000-number blocks for nearly five years, and even now in the immediate Order and FNPRM herein the Commission continues to slow-roll the implementation of thousands-block pooling. CLECs and consumer advocates have requested even more efficient number assignment methods, such as Unassigned Number Portability (UNP) or Individual Number Pooling (INP). Wireless carriers have been and continue to be exempted from participation in *any* number conservation programs, not because of any inherent technological impediment, but rather because these entities simply didn't want to spend the money to implement LNP. These kinds of inefficiencies in the allocation and use of numbers will not be solved by requiring carriers to "pay" "market-based prices" for numbers.

- *Achieve competitive neutrality in number allocation.* The notion that charging "market-based prices" for numbers will be fairer to entrants vis-a-vis incumbents is difficult to support. Incumbents possess huge inventories of numbers and can continue to supply numbers in "favorable" area codes simply through normal churn of their customer base. Would the Commission sanction differential "market-based prices" for numbers in traditional NPAs versus those in "overlay" NPAs? Would companies (such as incumbents) with extensive financial resources (once described by Judge Harold H. Greene as having "bottomless pockets"[41]) simply "buy up" the entire stock of numbers so as to block entry by new carriers? The Commission needs to address these kinds of questions long before it embarks down the "charging for numbers" path.

- *What should the price of a number be?* What would constitute a compensatory market-based price for numbers?[42]

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41. United States v. Western Electric Company, 1989 U.S. Dist. LEXIS 18852 (D.D.C.), at 20.

42. Consumer Commenters submit that, by continuing to pursue this measure despite little support from parties submitting comments in response to the Notice, the FCC has not thoroughly analyzed the significant prices that might be assessed on numbers. The correct economic method for determining the appropriate price for numbers arguably would be to employ "shadow pricing," whereby the amount would be set based on the potential cost of NANP exhaust, which has been put by the Commission at as much as $150-billion. Based on existing utilization rates for NPAs currently assigned, when all 780 NPAs are gone, there may be on the order of 500 million actual working numbers in use by end users. (*See* Number Utilization Forecast and Trends, at 8.) On that basis, each working number should carry a price of about $300. Applying normal capital carrying costs (without depreciation or maintenance), this would probably represent about $6 per month for each working residential and business phone number. If the Commission really wants to promote

In order for market-based pricing of numbers to be both feasible and effective in optimizing the use of numbering resources, no carrier can be discriminated against. Despite the Commission's belief that setting prices for numbers will be pro-competitive, the sole manner of ensuring this nondiscriminatory standard is to implement individual telephone number pooling (ITN), yet the FCC has thus far not provided such authorization.[43]

Setting an appropriate dollar value on numbering resources would also be a difficult task in the abstract. The price would need to be high enough to provide an incentive to carriers to use numbers "efficiently." However, a rate set too high would serve as a barrier to entry to new entrants, regardless of whether numbers are assigned in blocks of 1,000 or 10,000. CLECs may not have the same magnitude of resources to purchase numbers as compared with incumbents. On the other hand, a rate set too low would not provide an incentive to carriers to efficiently consume numbering resources. If purchasing costs do not fully reflect the cost to society of avoiding area code exhaust, carriers may still purchase greater quantities of numbers than they need. In other words, the price may fail to reflect the substantial externalities created by inefficient use of numbering resources. Setting prices may also become difficult because there may be extreme variations in the value of individual numbers due to their potential for use as "vanity numbers."

A pricing plan would also need to consider numbering resources already held by individual carriers. ILECs currently hold huge inventories of unused telephone numbers, and would thus be

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efficiency and considers NANP exhaust and the resulting digit expansion to be inevitable, this is the price it will need to impose for each working telephone number. Obviously, a price of this magnitude would be totally unacceptable. The alternative, of course, is to adopt and implement aggressive and effective number conservation *now,* so as to avoid this massive societal cost.

43. *Id.*, at para 230.

largely insulated from incurring costs under any charging plan that was limited solely to new numbers. New entrants, on the other hand, either have limited numbering resources or are denied new numbers in NPAs where jeopardy conditions exist. These carriers would essentially be forced to "buy" the numbering resources that incumbent carriers accumulated at no cost. Because the incumbents already possess an embedded resource and customer base – the acquisition of which has not caused them to incur any cost – this scheme would discourage the development of competition, thus diminishing the prospects of competitive choices for consumers. A pricing scheme can not be competitively neutral if the ILECs are not required to pay for the substantial amount of numbers over which they already have control.

Additionally, the relationship between need-based allocation of numbers and the prices assigned to numbers must be examined. Though not intended, a market-based allocation of numbers may completely usurp any needs-based determination required by the Commission. If the market is allowed to set prices for numbers, then theoretically there is no "need" for a needs-based allocation system, either for new codes or growth codes,[44] as the market will determine which carriers receive codes. This situation would disadvantage those carriers without substantial financial resources, such as new entrants and smaller carriers, and would allow established wealthy carriers to buy up all of the numbering resources, effectively removing competitors from the market. If the Commission retains the need-based allocation system in order to determine which carriers have the "need" to buy numbers, then again the actual market price for numbers may preclude these carriers from entering the market. In fact, knowing the prices for numbers would in most cases actually discourage smaller

44. *Id.*, at paras. 96-106.

carriers from even applying for numbers. Alternatively, setting the price for numbers at a level that is less than what the market will bear will not provide the appropriate economic signals that are necessary in order to accomplish the Commission's goal of increasing the efficiency of number allocation.

Any pricing scheme would likely harm consumers. The additional charge incurred by carriers to obtain numbers may be passed through – implicitly or explicitly – to consumers. If the Commission does implement such a pricing scheme, carriers should not be permitted to flow these costs to end users. As the Commission notes, the establishment of prices for numbers is meant to provide an economic incentive to carriers to use numbers efficiently.[45] Allowing carriers to flow costs through to customers would eliminate such an incentive, since carriers are the sole entities in control of the inventory of numbers. NPA exhaust is not caused by the increased use of numbers by consumers (e.g. internet connections, fax machines, cellular phones). It is a direct result of the manner in which numbers have been allocated in the past and the tendency of carriers to hoard resources in anticipation of exhaust conditions. The costs associated with the "purchase" of numbers should be considered an ordinary "cost of doing business" and should be borne by the carriers.

Placing a market value on numbers raises property rights issues. Currently, it would seem that neither carriers nor end users obtain "property rights" to their telephone numbers, and FCC rules prohibit "trafficking" in numbers.[46] The Commission has adopted and enforced specific rules

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45. Order and FNPRM, at para. 251.

46. CC Docket 95-155, *Commission's 2nd Report and Order and Further NPRM*, released April 14, 1997. However, some carriers do offer a "Gold Number service". While customers must pay a monthly charge for a vanity number, they are expressly denied any property rights to that particular number. The carriers assert property rights over the vanity number, although this has not been

prohibiting trafficking in 800/888/877 toll-free numbers.[47] However, by requiring payment for numbers, carriers and customers could argue that such payments afford them property rights. Such assertions could lead to negative consequences. Once carriers have ownership in their stock of numbers, they will not be obligated to participate in schemes that seek to ration these numbers. For instance, carriers could refuse to port or pool numbers that were "bought and paid for," as they may assert that payments have given them a legal basis to refuse to permit porting or pooling of a "proprietary" resource.

If customers are forced to pay for numbering resources then customers could resort to "private auctions" for numbers and numbering resources.[48] Such auctions, not under the supervision of regulators or the industry would result in a deadweight loss to the numbering system. In other words, no revenues would be generated that might be used to offset USF or TRS requirements even as carriers and private individuals would be forced to pay higher prices for numbering resources. Additionally, auctioning of numbering resources would put upward pressure on the cost of telephone service for all telephone customers as prices are "bid up".

As stated in previous comments submitted in this docket, the FCC may lack the necessary

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tested in court. *See*, for example, New England Telephone and Telegraph Company, PSB Vermont Exchange and Network Services Tariff No. 20, Part A, Section 7, page 22, Effective December 4, 1999 and WorldCom Technologies, Inc., New York PSC No. 2, Attachment No. 26, Effective December 22, 1997.

47. *See* CC Docket 95-155, *Commission's 2nd Report and Order and Further NPRM*, released April 14, 1997.

48. Similar auctions have resulted with regard to internet domain names, whereby "squatters" have registered domain names of businesses or celebrities and attempted to "sell" the rights to the domain name to the entity or person at a price greatly exceeding the actual cost of the registration.

legal authority to adopt a pricing scheme. While it is true that the Commission has the authority to auction licenses to use portions of the electromagnetic spectrum, this authority does not seem to extend to numbers. In fact, Congress specifically authorized the Commission to auction licenses to use the electromagnetic spectrum as part of the Omnibus Budget Reconciliation Act of 1993. This act provided the Commission with a power that it did not previously possess. Congress has not similarly acted to give the Commission the power to sell numbers, and there is nothing in either the 1934 or 1996 Acts that authorizes the Commission to impose such charges. Therefore, unless Congress sees fit to grant the Commission the power to sell numbers, it is not clear that the Commission has the legal authority to do so. It is clear that the issue requires further study and legal analysis, and should certainly not be adopted without full consideration of the potential pitfalls that may well arise.

Consumer Commenters submit that, should the Commission choose to implement a system of market-based pricing for numbers, the Commission should in no way rely solely upon such a system as the sole means of "regulating" numbering resources. Rather, number pricing should simply be incorporated as one of the many number optimization policies implemented by the Commission. The Commission must make every attempt at keeping number resources open and available to all carriers that may seek to provide service to consumers. Simply relying on market-based pricing for numbers will not accomplish this goal.

The Commission questions whether or not funds collected from the "sale" of numbers could be used as an offset to universal service or Telecommunications Relay Service (TRS) programs, and specifically requests comment on how to account for the fact that some carriers do not use

numbering resources but are still required to contribute to these programs.[49] In order to realize the anticipated efficiency effect of setting prices for numbers, the Commission should offset the total costs of universal service and TRS programs by the total fees collected for numbers, and recover the remaining shortfall (if in fact one exists) from all carriers, including interexchange carriers. Since contributions to these funds now are ultimately recovered by all carriers through end user surcharges, the Commission should require that all carriers flow through any reductions in their respective contributions to these programs directly to end users. Failure to do so will eliminate the economic impact of making carriers pay for numbers, and no efficiencies in number allocations will be realized.

One issue not addressed by the FCC is this: What happens if, once the price is set for numbers, the sale of numbers raises more money than the universal service and TRS programs currently need? What would become of these excess funds? One logical argument would be that these funds should be set aside to assist in paying for NANP exhaust; however, the implementation of number conservation measures, including the sale of numbers, is supposed to delay or even defeat the need to add digits to the NANP. Assigning prices to numbers clearly has many angles, all of which must be investigated thoroughly prior to implementing a market-based allocation of numbers.

The scenario of pricing for numbers described above also neglects to address one significant issue, that being that the implementation of a pricing plan for numbers would require significant administrative costs. If the price set for numbers is too low, these costs, which would include

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49. Order and FNPRM, at para. 251. In the situation raised by the Commission, only those carriers that assign telephone numbers (such as wireline local exchange and wireless carriers) would incur the costs of purchasing numbers; thus, only these carriers would be subject to a (presumed) dollar-for-dollar offset to their contributions to these programs.

distribution, licensing and enforcement costs, could exceed any benefit that may be achieved through the sale of numbers. Thus, the Commission's idea of offsetting carrier contributions to universal service or TRS programs with the funds raised through the sale of numbers may be moot. Worse, any shortfall in recovering these administrative funds from carriers could result in increased prices or new surcharges imposed upon consumers, which would be a seriously disappointing result from any attempted number optimization measure.

In conclusion, the idea of charging a fee for numbers should not be implemented as a potential solution to the numbering crisis. The difficulty in establishing an "efficient" price; the lack of a legal basis for instituting this measure; the potential anti-competitive side effects; and the potential for burdensome administration costs far outweigh the limited potential benefits of such a pricing scheme. Consumer Commenters believe the Commission would be better served by focusing upon other solutions to the numbering crisis.[50]

V. RECOVERY OF SHARED INDUSTRY AND DIRECT CARRIER-SPECIFIC COSTS OF POOLING

A. Discussion of Issue

Pursuant to its authority under section 251(e) of the Telecommunications Act of 1996 (the 1996 Act),[51] the Commission has adopted thousands-block number pooling as a "mandatory nationwide numbering resource optimization strategy."[52] Following the selection of a national

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50. Consumer Commenters also believe that this issue merits further study so that the implications of charging for telephone numbers can be more fully addressed.

51. 47 U.S.C. § 251(e).

52. Order and FNPRM, at para. 122.

pooling administrator, thousands-block pooling will be rolled out gradually across the country in LNP-capable NPAs identified by the pooling administrator as those best able to reap the benefits from the implementation of pooling.[53] All carriers that are currently required to be LNP-capable will be subject to the Commission's number pooling framework.[54]

Under Section 251(e)(2) of the Communications Act of 1934, as amended, "[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."[55] In the Notice, the Commission concluded that thousands-block number pooling is a numbering administration function that is subject to the Commission's authority under 251(e)(2); thus, the Commission concludes that it has the authority to provide an exclusively federal "distribution and recovery mechanism for both intrastate and interstate costs of number pooling."[56]

The Commission has chosen to adopt cost recovery principles that are similar to those established for local number portability, including the concept of separating costs for pooling into three separate categories: shared industry costs, carrier-specific costs directly related to pooling, and carrier-specific costs not directly related to pooling.[57] The Commission determined that "it is

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53. *Id.*, at para. 159. The FCC has tentatively concluded that pooling will be implemented in three NPAs per Number Portability Administration Center (NPAC) region (of which there are seven), per quarter, so as not to cause network disruptions nor unduly strain the resources of the pooling administrator. *Id.*

54. *Id.*, at para. 125.

55. 47 U.S.C. § 251(e)(2).

56. Notice, at para. 193.

57. Order and FNPRM, at paras. 193, 203.

competitively neutral for carriers to recover the shared industry costs and carrier-specific costs directly related to thousands-block number pooling implementation," and that carriers not be permitted to recover costs not directly related to number pooling "because these costs are not subject to the competitive neutrality requirement."[58]

Though the Commission determined which costs are to be recovered, it has refrained from addressing the specific cost recovery mechanism, due to the absence of data in the record relating to the specific incremental costs carriers will incur to implement thousands-block pooling.[59] In the Order and FNPRM, the Commission has requested comments and cost studies that quantify not only the shared and carrier-specific costs associated with number pooling, but also the costs that would be avoided (such as those incurred to implement a new area code) due to the implementation of number pooling.[60] In addition, the Commission requested that cost studies should seek to separate costs into the three categories identified in the Order and FNPRM, as well as distinguish the costs of providing number portability from the costs of implementing thousands-block pooling.[61] Specifically, the FCC has acknowledged that "only new costs should be identified in the cost studies

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58. *Id.*, at para. 205. *See also id.*, at para. 211.

59. *Id.*, at para. 194.

60. *Id.*, at paras. 215, 253.

61. *Id.*, at para. 216. In identifying costs specific to number pooling, the Commission finds that the two-part "but for" test that was used in identifying number portability costs eligible for cost recovery should also be employed here. *Id.*, at para. 217. Under this test, the carrier was required to show that costs: "(1) would not have been incurred by the carrier 'but for' the implementation of number portability; *and* (2) were incurred 'for the provision of' number portability service." *Cost Classification Order*, 13 FCC Rcd at 24500.

as carrier-specific costs directly related to thousands-block number pooling."[62]

B. Recommendation

Consumer Commenters concur with the opinion of the Commission that, except for certain administrative and record-keeping costs, most of the costs of pooling are associated with LNP, and have already been captured by the costs incurred by carriers in implementing local number portability. LNP costs are currently being recovered through end-user surcharges. Consumer Commenters suggest that the Commission pay close attention to the separation of costs between those incurred for number portability and those incurred for pooling. Consumer Commenters agree with the Commission that it is important "to prevent the over recovery of thousands-block number pooling and number portability costs."[63]

In fact, the allowable recovery of *any* pooling costs by carriers is inappropriate. Consumer Commenters submit that the recovery of costs for number pooling from consumers would be anticompetitive. As the FCC concluded, "the competitive neutrality requirement does not require the Commission to ensure that carriers recover all of the costs expended for thousands-block number pooling implementation and administration."[64] Instead, section 251(e)(2) of the Telecom Act of 1996 requires that a cost recovery method "ensures that carriers bear the costs on a competitively neutral basis."[65] Both incumbent carriers and new entrants will incur costs to implement number pooling, yet regulated cost recovery mechanisms can only be instituted for incumbent local carriers:

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62. Order and FNPRM, at para. 219.

63. *Id.*

64. *Id.*, at para. 200.

65. 47 U.S.C. § 251(e)(2).

no similar opportunity exists for competitive carriers, so this result is anything but "competitively neutral." In fact, it is discriminatory.

Moreover, the FCC's conclusion that *only* "carrier-specific costs not directly related to thousands-block pooling implementation" be borne by the carrier as a "network upgrade"[66] runs contrary to the treatment of costs incurred by carriers for implementing new area codes. Thousands-block pooling and other number assignment processes are the natural result of network development and evolution and must be treated for regulatory purposes as ordinary and necessary costs of doing business. Thus, there is no substantive difference between the concept of *implementing new area codes* in order to assure that enough telephone numbers are available to all requesting carriers and *implementing thousands-block number pooling* to ensure the same thing. Prior to the issuance of the current Order and FNPRM, the only mandated method of ensuring adequate numbering resources was to introduce new area codes, either through a geographic split or an all-services overlay.[67] The FCC's number pooling mandate, when reduced to its base level, simply institutes a new method of protecting against the depletion of numbers available to carriers in much the same way that introducing new area codes did in the past.

Consumer Commenters maintain that consumers should play no role in the recovery of pooling costs. However, should the Commission choose to pursue the development and implementation of a pooling cost recovery mechanism, given the similarities in purpose between

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66. Order and FNPRM, at para. 211.

67. Even with the mandated implementation of thousands-block pooling required in this Order, the FCC maintains that "no carriers should be denied numbering resources simply because needed area code relief has not been implemented." Order and FNPRM, at para. 171.

pooling and the introduction of new area codes, the Commission should simply ignore any suggestion that the costs of implementing number pooling be recoverable by incumbent carriers operating under a price-cap form of regulation through an exogenous cost offset to the price caps formula. Recovery of the carrier costs associated with implementing a new area code (via split or overlay), which have been estimated at $6-million,[68] have rarely been pursued at the state level,[69] and to the best of Consumer Commenters' knowledge, have *never* been applied for at the federal level.[70] Since these additional costs for pooling will be largely administrative in nature, they cannot be specifically linked to any "regulatory action" other than a general recognition of ongoing network development. As discussed, though the Commission may have reached a conclusion on whether or not to allow for the recovery of pooling costs, it has yet to implement a cost recovery mechanism. There is no precedent for allowing recovery of these costs via an exogenous offset to a price cap formula.

The FCC has also requested comment on the quantification of *avoided costs* associated with

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68. This value pertains to costs incurred by the incumbent alone. *See* Illinois Bell Telephone Company: Annual Rate Filing for Noncompetitive Services Under an Alternative Form of Regulation, ICC Docket No. 96-0172, 1996 Ill. PUC Lexis 324, at *4.

69. Ameritech Illinois sought to recover the costs associated with introducing new area codes through an exogenous adjustment to its price cap formula. In rejecting this request, the Illinois Commerce Commission stated that, "[a]rea 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." *Id.*

70. In fact, when Ameritech Illinois applied for an exogenous adjustment to its intrastate price cap formula in order to recover the costs associated with implementing a new area code, it did not attempt to claim exogenous treatment for the interstate portion of area code costs. *Id.*

the implementation of number pooling as compared to the costs associated with repeatedly introducing new area codes in required areas. While Consumer Commenters are not in a position to set forth such a cost study, it is certainly reasonable to consider that the costs of implementing thousands-block pooling could well be *less* than the cumulative costs of introducing new area codes, thus resulting in a *cost savings*. As referenced above, the costs of introducing a new area code have been estimated at $6-million *for the incumbent LEC alone*.[71] When added to the expenses incurred by other carriers, and considering that these costs are incurred each time a new code is introduced, the resulting economic impact of a new area code becomes much larger. Number pooling may require that costs be borne by all carriers, but those costs are incurred *one time only*.[72] Bell Atlantic-Massachusetts has estimated that its direct costs of implementing number pooling would be $5.2-million,[73] which is *less* than the costs incurred by Ameritech for implementing a new area code. In

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71. Since about 130 new area codes have been introduced since January 1, 1995, incumbent carriers have already expended approximately $780-million. Federal Communications Commission, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 21.1. Given that approximately 500 area codes remain for assignment, the future costs incurred by *incumbent carriers alone* to implement new codes could reach $3-billion.

72. The most significant carrier costs will reside in the purchase and implementation of NPAC 3.0, the FCC-approved software required of all carriers participating in thousands-block pooling. NPAC 3.0 is scheduled to be activated by NeuStar in July, 2000. Order and FNPRM, at para. 126.

73. $5.2-million is directly attributed to Bell Atlantic-Massachusetts, while an *additional* $2.7-million in shared costs for the states in the Bell Atlantic-North region will also be incurred. 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, DTE Docket No. 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 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), DTE Docket No. 99-99, *Order*, April 25, 2000, at 12.

areas where many new area codes have been introduced because of the inefficient method of allocating numbers, the cost impact of implementing pooling by all carriers is likely to be far less than the sum total costs of introducing many new codes. This provides yet another sound reason for rejecting the recovery of pooling costs by carriers: by mandating number pooling, the Commission may, in essence, be doing these carriers a financial favor in the long term.

Any discussion of avoided costs in the context of number optimization would not be complete without referencing the costs that are avoided by *not* expanding the NANP. The Commission's mandated pooling roll-out is the first of what may be several necessary steps in preventing the need for NANP expansion, the economy-wide costs of which have been estimated at $150-billion.[74] The NANP Administrator has demonstrated that thousands-block number pooling can significantly delay the expansion of the NANP.[75] The costs necessary to implement pooling (whatever the exact amounts may be) will surely pale in comparison to the sizeable portion of the costs of NANP expansion that could be incurred by telecommunications carriers. The costs of pooling, regardless of how substantial the estimates are, result in a net cost savings when compared to the costs to carriers for expanding the NANP; as such, the Commission should feel quite comfortable in requiring carriers to incur the costs of pooling without the necessity of recovery from consumers.

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74. Order and FNPRM, at para. 6, footnote 10, citing North American Number Council Meeting Minutes, February 18-19, 1999, at 13.

75. Number Utilization Forecast and Trends, at 21.

VI. ADDITIONAL CONSIDERATIONS

Consumer Commenters respectfully submit that in its otherwise commendable efforts to assure the maximum development of competition, the Commission may have given inadequate consideration to the costs that existing numbering policies have imposed on consumers and on society as a whole. As the Commission moves forward in this regard, Consumer Commenters urge the Commission to consider the following:

- The Commission needs to focus on balancing its assessment of the various "implementation difficulties" being claimed (often without hard proof) by ILECs and incumbent wireless carriers with the costs and inconvenience for consumers and businesses resulting from continuing area code introductions.

- Rather than protecting competitors' proprietary interests in number utilization data, the Commission should provide consumer representatives and the public the ability to verify the often self-serving claims of service providers as to their respective need for numbers, or to challenge such claims with substantive evidence.

- The Commission should aggressively focus on all remaining number conservation efforts in an all-out effort to avoid exhaust of the NANP and the costly digit-expansion that would result which, by the Commission's own analysis, might involve societal costs of as much as $150-billion.

Consumer Commenters recognize that significant opportunities for conserving area codes and preserving the 10-digit NANP still exist. We urge the Commission to pay close attention to consumer interests while continuing its pursuit for further numbering efficiencies.

VI. CONCLUSION

WHEREFORE, the Consumer Commenters respectfully submit that the Commission consider these comments as it considers the Further Notice of Proposed Rulemaking, and the issues contained therein, at the above-captioned docket.

Respectfully submitted,

May 19, 2000

Consumer Commenters

Pennsylvania Office of Consumer Advocate
555 Walnut Street, 5th Floor Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048

Missouri Office of Public Counsel
P.O. Box 7800
Jefferson City, MO 65102
(573) 751-4857

Florida Office of Public Counsel
c/o Florida Legislature
111 West Madison Street, #812
Tallahassee, FL 32399-1400
(850) 488-9330

Indiana Office of Utility Consumer Counsel
100 N. Senate Avenue, Room N501
Indianapolis, IN 46204-2215
(317) 232-2494

Maryland Office of People's Counsel
6 St. Paul Street, Suite 2102
Baltimore, MD 21202
(410) 767-8150

Texas Office of Public Utility Counsel
1701 N. Congress Avenue, Suite 9-180
Austin, TX 78701
(512) 936-7500

The Office of People's Counsel
District of Columbia
1133 15th Street NW, Suite 500
Washington, D.C. 20005-2710
(202) 727-3071

California Office of Ratepayer Advocates
505 Van Ness Avenue, Room 4202
San Francisco, CA 94102
(415) 703-2544

The Utility Reform Network
711 Van Ness Avenue, Suite 350
San Francisco, CA 94102
(415) 929-1132

Maine Public Advocate
State House Station 112
Augusta, ME 04333
(207) 287-2445

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

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

I hereby certify that I have this day served a true copy of the foregoing document, Joint Consumer Comments, upon parties of record in this proceeding.

Dated this 19th day of May, 2000.

Respectfully submitted,

Joel H. Cheskis
Assistant Consumer Advocate

Counsel for
Office of Consumer Advocate
555 Walnut Street, Forum Place, 5th Floor
Harrisburg, PA 17101-1923
(717) 783-5048

*58407