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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

In the Matter of
Numbering Resource Optimization

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CC Docket No. 99-200

REPLY COMMENTS OF
THE NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS GENERALLY
SUPPORTING INITIAL COMMENTS FILED BY PUBLIC SERVICE COMMISSIONS

I. INTRODUCTION

On March 31, 2000, the Federal Communications Commission ("Commission" or "FCC") released its *Report and Order and Further Notice of Proposed Rulemaking* ("FNPRM") in this proceeding. NARUC member commissions from California, Maine, New Hampshire, Pennsylvania, Texas and other states filed initial comments responding to the FNPRM. In the FNPRM, the FCC seeks comment on four issues. The comments filed by NARUC's member commissions are generally consistent in their responses to two of those issues: (1) what should the national utilization threshold be (§ 248) and (2) should covered commercial mobile radio service ("CMRS") carriers should be required to participate in pooling immediately upon their implementation of local number portability no later than November 24, 2002 (§ 249). NARUC generally supports those state comments on those two issues consistent with the following discussion. Indeed, during the last two months, NARUC has facilitated one or more direct face-to-face meetings with each FCC Commissioner on both these issues.

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II. NUMBER UTILIZATION RATES

NARUC passed a resolution last March that indicates that the FCC needs to expeditiously establish a utilization rate for non-pooling carriers that: (1) compels efficient numbering practices; (2) provides carriers with timely access to numbering resources for which they have demonstrated a proven need; and (3) comports with state experience in the rate of number utilization. Comments filed by several NARUC members, suggest, *at a minimum*, immediate adoption of a 75% utilization rate with an increase to an 80-85% range within the next two years will met all these objectives. Based on those comments, it does appear that a 75% utilization rate will minimize the number of stranded resources and encourage more efficient numbering practices. Maine, California, Massachusetts, New Hampshire, and New York have already adopted a 75% fill rate for all carriers.

III. WIRELESS POOLING

Again, as all the State commenters suggest, NARUC's resolution urges the FCC to 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 their systems not only LNP-capable but also pooling-capable. There are two years left before the deadline occurs. Wireless carriers must be given every incentive to devote the necessary resources to accomplish this task; they must not be allowed to continue to delay implementation. Wireless participation could have an enormously positive impact on the effectiveness of pooling. States, such as California and Maine, have found that the number pool could increase by as much as 40% if CMRS carriers were required to pool. Thus, it is critical for CMRS carriers to participate in pooling as early as possible.

The FCC must look very carefully at any arguments made by carriers alleging that they technically will not be able to begin pooling on November 24, 2002. Carriers must be required to provide specific information to support their assertions. The FCC should determine whether any technical limitations: (1) could be overcome with more resources; (2) are the result of willful disregard of earlier orders and deadlines; and/or (3) are actual limitations by specific carriers and not generalized concerns raised by trade associations. Carriers often need external deadlines to justify allocating the resources necessary to meet the deadline.

The implications of continuing the wireless exemption on number conservation appear quite significant. Another postponement of the deadline for this growing sector of the industry will extend the inefficient allocation of number resources that this Commission has recognized as inefficient and is attempting to change.

V. CONCLUSION

NARUC respectfully requests the Commission carefully consider the foregoing comments and incorporate these positions in the final order in this docket.

Respectfully submitted,

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General Counsel

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June 9, 2000

Appendix A

NARUC's MARCH 2000 RESOLUTION

Resolution on the FCC's Number Conservation Rulemaking Proceeding and Pending Delegation Orders

WHEREAS, The current numbering administration process for the North American Numbering Plan has proven to be inadequate and has led to the inefficient use of numbering resources and the premature assignment of new area codes; and

WHEREAS, The FCC has worked closely with the States and acted expeditiously on 10 state requests for additional authority to conserve numbering resources; and

WHEREAS, The FCC is expected to issue an order soon based on comments received in response to its June 2, 1999 Notice of Proposed Rulemaking in the Number Resource Optimization Docket, CC Docket No. 99-200, FCC 99-122 (June 2, 1999); and

WHEREAS, In July, 1999, NARUC passed a resolution outlining critical principles that are essential to the creation of an effective, competitively-neutral, administratively feasible numbering administration system which were filed in this proceeding within two weeks of the resolution's passage; and

WHEREAS, On January 20, 2000, a group of States met with the FCC to discuss numbering issues and subsequently filed proposed revisions to the "*Industry Numbering Committee (INC) Thousand Block (NXX-X) Pooling Administration Guidelines*" which were consistent with, but more specific than NARUC's previous resolution, suggesting, among other things, (1) changing permissive language to mandatory language to reduce carrier options to comply, (2) requiring the Pooling Administrator to include states in a decision-making process with the industry, instead of allowing decisions just by industry consensus, (3) changing the 9 month inventory to 6 months and the 6 month jeopardy inventory to a 3 months, (4) requiring quarterly forecasts instead of annual (and clarifying that States can require them less frequently under appropriate circumstances), and (5) requiring the pooling administrator to review carrier forecasts for reasonableness before sizing the individual pools.

WHEREAS, The group of States also made specific presentations on related issues, an outline of that presentation is appended to this resolution, that again were generally consistent with NARUC's original resolution, but added additional detail and reached some issues not addressed in NARUC's July comments; *now therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened in its 2000 Winter Meetings in Washington, D.C., that NARUC extends its appreciation to the FCC and its staff for working closely with the States on the first set of State delegation orders and the critical issues raised by the NPRM; *and be it further*

RESOLVED, That NARUC supports the specific revisions to the INC Guidelines described above and the additional proposals described in the attached addendum which were presented

during the January 20, 2000 meetings between State staffs and the FCC, and urges the FCC to adopt these proposals; *and be it further*

RESOLVED, That NARUC urges the FCC to act this month on the NPRM, and failing that to respond as quickly as possible to outstanding State requests for additional authority to impose numbering conservation measures; *and be it further*

RESOLVED, That NARUC counsel is directed to file comments consistent with this resolution with the FCC.

Sponsored by the Committee on Telecommunications

Adopted by the NARUC Board of Directors March 8, 2000

**ADDENDUM TO MARCH 2000 NUMBERING RESOLUTION
OUTLINE OF POSITIONS PRESENTED BY STAFF FROM 17+ STATES DURING THE JANUARY 20,
2000 MEETING WITH THE FCC**

I. CORE POSITIONS

- A. Unnecessary area code relief must be stopped through adoption of enforceable number conservation measures.
- B. Industry must be made accountable for use of public resources through mandatory compliance with specific rules and reporting requirements.
- C. States and NANPA need enforcement authority and states need the ability to participate in policy decisions relating to the implementation of conservation measures

II. ADDITIONAL REQUIREMENTS RELATED TO POOLING

- A. **FILL RATES:** Support the use of fill rates in tandem with a requirement that carriers show that resources will exhaust within 6 months.
- B. **FACILITIES READINESS:** Support requirement that carriers show readiness to provide service before numbers are allocated
- C. **ACCURATE FORECASTING AT RATE CENTER LEVEL:** Support requiring accurate forecasting to allow states to make reasonable relief and pooling decisions and force carriers to be more accountable.
- D. **PROVISION OF UTILIZATION DATA AT RATE CENTER LEVEL:** This data is key to ensuring accountability; it provides states and NANPA with data necessary to reclaim unused codes and ensure carrier compliance with guidelines and state conservation orders.
- E. **SEQUENTIAL NUMBERING:** Requires carriers to preserve uncontaminated thousands blocks until pooling begins to gain maximum benefits from pooling.
- F. **AUDITING/COMPLIANCE AUTHORITY TO STATE and NANPA**
 - (1) A neutral third-party, such as NANPA or a state commission, should conduct audits; states should not be required to conduct the audits but should be allowed to do so if resources permit. Auditing will be an important tool for ensuring compliance with the FCC's Order.
 - (2) NANPA needs clear authority and guidance - NANPA will be the front line of enforcement and they need authority to take action against carriers.
 - (3) NANPA needs to work with states - NANPA should feel comfortable meeting states' needs without feeling "disloyal" to industry
- G. **OTHER ISSUES**
 - (1) No prerequisite of rate center consolidation - Rate center consolidation is complex, costly, and time consuming. While it should be considered, it should not be a prerequisite to pooling.
 - (2) No distinction between urban and rural areas - FCC should not condition the availability of conservation measures on whether an area is in an urban or rural area.
 - (3) No slipping of wireless LNP deadline (11/02) - Wireless participation in pooling is essential for long-term conservation.

III. CARRIER CHOICE OF CONSERVATION MEASURES SHOULD NOT BE ALLOWED

IV. STATE/FEDERAL REVIEW AND APPROVAL OF ANY INDUSTRY-DRAFTED GUIDELINES SHOULD BE REQUIRED IF THE GUIDELINES WILL BE USED BY NANPA TO ADMINISTER NUMBERS. Currently, INC drafts and revises guidelines that are used by industry and NANPA to administer numbers. Neither FCC nor states participate directly nor do they approve the final versions. The Guidelines often have significant impact on numbering policy issues and thus it is important that both states and the FCC participate in the process.

V. STATES SHOULD BE GIVEN AUTHORITY TO ORDER UNASSIGNED NUMBER PORTABILITY (UNP) WHEN STATE SPECIFIC CIRCUMSTANCES WARRANT. The porting between carriers of Telephone Numbers that are yet unassigned to customers (i.e., unassigned number porting or UNP) is one resource management tool that could preclude the need for a carrier to obtain larger, and potentially unused, blocks of numbering resources directly from the NANPA. Therefore, granting the states the authority to order UNP, when state specific circumstances warrant, is clearly in the public interest.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all known parties of record by mailing, by first-class mail, a copy thereof properly addressed to each party.

Dated at Washington, DC, this 9th day of June, 2000.

James B. Ramsay