

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Numbering Resource Optimization)
)

CC Docket No. 99-200/

PETITION FOR CLARIFICATION AND/OR RECONSIDERATION
OF THE
UNITED STATES TELECOM ASSOCIATION

UNITED STATES TELECOM ASSOCIATION

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TABLE OF CONTENTS

SUMMARY.....	i
I. Some of the attributes of the five-day pending limit in combination with the 45 day reservation period and the interaction between them must be reconsidered	2
A. The five-day pending limit.....	3
B. The reserved number restriction	4
C. Adverse effects of the combined definitions	8
D. USTA’s application of the definition to the appropriate situations	9
E. USTA proposal to remedy the deficiencies in the current definition	11
II. Implementation of the 45 day reservation period should be delayed until a fee structure for extensions of reserved numbers is evaluated	11
III. The basis for selecting NPAs for pooling implementation should be clarified so that selection is based on unconstrained demand	13
IV. Classification of certain uses of numbers needs to be clarified for utilization level calculations to be accurate	14
V. The aging number interval definition must be corrected	16
CONCLUSION.....	16

SUMMARY

USTA seeks clarification or reconsideration of several aspects of the rules and policies that the Commission adopted in its Report and Order and Further Notice of Proposed Rule Making in the Numbering Resource Optimization proceeding (Order). The issues raised by USTA in this petition center around the definitions of specific number categories and the impact of how those definitions are implemented.

The first issue of concern involves the definitions that result in a five-day pending limit a number must be held in the *assigned* category and a subsequent 45 day period in the *reserved* category. This combination of definitions will likely result in undesired consequences for both customers and carriers and will not achieve the goals the Commission intended to achieve. Therefore, USTA proposes that the definition of *assigned* numbers be modified as follows:

Assigned numbers are numbers working in the Public Switched Telephone Network under an agreement such as a contract or tariff at the request of specific end users or customers for their use, or numbers not yet working **but to which an active service order applies.** Numbers that are not yet working and have a service order pending, **but not yet active,** for more than five days shall not be classified as assigned numbers.

Second, implementation of the 45 day reservation period for numbers should be delayed until the Commission has evaluated the fee structure for extensions of *reserved* numbers to be submitted by the North American Numbering Council (NANC).

Third, the Commission should clarify that prediction of remaining lives of NPAs for pooling implementation is to be based on unconstrained demand.

Fourth, The Commission should clarify that numbers in aging and subject to intercept treatment should be placed in the *assigned* category. Also, the Commission

should clarify that numbers assigned to a carrier and used by employees for official business should be classified as *assigned*, rather than *administrative*.

Finally, the Commission should correct the definition of *aging* numbers in Section 52.15(f)(1)(i) of its rules to reflect that the maximum interval for numbers previously assigned to business customers is 365 days.

I. Some of the attributes of the five-day pending limit in combination with the 45 day reservation period and the interaction between them must be reconsidered

In the Order, the Commission's adopted definitions result in a five-day pending limit a number may be held in the *assigned* category³ and a subsequent 45 day period in the *reserved* status.⁴ USTA believes that this combination is unduly restrictive, will result in customer confusion, dissatisfaction and "churn," and will result in increased costs and other burdens for carriers. In addition, USTA believes that these definitions in their present form will frustrate, rather than contribute to the goals the Commission stated it hoped to achieve in adopting the policies contained in the Order.

As more fully explained below, the definitions and requirements it adopted will not achieve the Commission's stated objectives of protecting customers from expenses of implementing new NPAs and ensuring that carriers have sufficient number resources required for competition.⁵ Furthermore, these definitions in their present form will not ensure that number resources are used efficiently, as the Commission intended the uniform set of number definitions to accomplish.⁶

The adverse consequences of each aspect of this issue are explained below. USTA seeks reconsideration of specific portions of the *assigned* number definition and proposes a modification of that definition for adoption by the Commission that will cure

² FCC 00-104, released March 31, 2000 (Order).

³ 47 C.F.R. § 52.15(f)(1)(iii); Order at ¶ 19.

⁴ 47 C.F.R. § 52.15(f)(1)(vi); Order at ¶ 23.

⁵ Order at ¶ 1; Numbering Resource Optimization, *Notice of Proposed Rulemaking*, 14 FCC Rcd 10322, 10325-26 (1999) (Notice).

⁶ Order at ¶ 12.

the deficiencies of the current definition and will preserve the Commission's stated objectives.

A. The five-day pending limit

In the case of the five-day pending limit in the Order, the Commission stated:

We also adopt a five-day limit on the time that a number may be held in pending status in the *assigned* category. We find that this restriction is necessary to prevent carriers from classifying numbers as pending assignment when those numbers should more accurately be placed in the category of *reserved numbers*.... We believe that the lack of limits creates incentives for misuse of this category. If carriers have such strong incentives to activate numbers, then five days should be adequate to complete activation in most instances.⁷

USTA takes exception to two portions of this statement. One is that the lack of limits “creates incentives for misuse of this category.” The other is that “five days should be adequate to complete activation **in most instances**.” (Emphasis added). In the first instance, there is no evidence of “misuse.” Furthermore, there is no indication as to what form of misuse the Commission is seeking to deter. Information available to USTA from its members indicates that under normal circumstances, activation can take longer than five days. The reasons for this are beyond the control of the parties involved, and in no way constitute “misuse.”

Under the new definitions, in order to maintain the customer's original number assignment after five days in the pending *assigned* category, the carrier may have to move the number from *assigned* (pending) to *reserved* until service activation can be accomplished. As has been stated, we believe that carriers will face this situation in a considerable number of service orders. Attendant to this change are the administrative burdens of changing the status of the number from *assigned* to *reserved*, and then when

⁷ *Id.* at ¶ 19 (footnote omitted).

activation is completed, back to *assigned*. During the time period in which the number is in *reserved* status, it cannot be *assigned*, and this has the added effect of negatively influencing the carrier's utilization factor for the switch from which the customer is served for whatever length of time the number in question is held in the *reserved* status. This burden that must be borne by the carrier in order to maintain a customer's assigned number is unjustified, especially since such efforts do nothing to improve the efficiency of use of numbers.

B. The *reserved* number restriction

With regard to adopting a limit on the reservation period for numbers, the Commission stated:

After the 45 day reservation period, these numbers should be categorized as *available* numbers if they have not been assigned to a customer or end user....The purpose of having reserved numbers is to give prospective clients some assurance that numbers with the characteristics those customers are seeking will be available to them in the near future. We find that limiting reservations to 45 days reasonably balances the needs of carriers to earmark and set aside a number or group of numbers for a particular customer against the objective of improving the efficiency of numbering resource use....Moreover, we concluded that permitting carriers to hold numbers in *reserved* status for a long period of time invites abuse.⁸

This statement clearly demonstrates that the Commission clearly recognizes the legitimacy of a customer's need to know in advance what number will apply to a future service and that the customer should have the option to make prospective plans and arrangements with certainty as to what its telephone number will be for a future service. The statement also demonstrates the linkage between the pending-*assigned* status and *reserved* status. The Commission determined that once a customer number is classified as *reserved*, after 45 days it must be returned to *available* status. In support of that

⁸ *Id.* at ¶ 23.

determination, the Commission stated that this requirement will support the “objective of improving the efficiency of numbering resource use.”⁹ USTA believes that the requirement is burdensome and destructive to the interests of customers and carriers, and that it does nothing to improve efficiency of numbering resource use.

In situations where service orders will be completed successfully within the 45 day reserved time frame, but not within the initial five day period, the new requirements will result in the carrier moving the number(s) in question from *assigned* to *reserved* and then back to *assigned*. This sequence creates administrative burdens, and as has been stated, also removes the number from the utilization factor calculation of the carrier and then puts it back in. In addition, at no time is the number at issue available for reassignment to any other customer. Thus, these requirements do nothing to improve utilization of the number(s) that are involved in this process. While no utilization benefit is obtained, these requirements add enormous administrative burdens. In cases such as this, which will be very frequent, simple logic dictates that the number should have remained in the *assigned* category for this entire time period. The Commission’s requirement must be reconsidered so that the number remains in the *assigned* category during this process.

The situations addressed above generally involve service conditions in which the facilities are in place and are available. Even in such relatively normal service situations, factors beyond the control of either the carrier or the customer can extend the time considerably between the placing of a service order and activation. These can include a lack of facilities which require construction. For example, a case where a customer

⁹ *Id.*

orders a second line at a residence, the drop wire may need to be replaced if the drop in place does not have two circuits available, the customer may need to schedule inside wiring be done, and other changes and rearrangements may be required. It is possible that carrier systems and other aspects of the distribution facilities will require reinforcement. In other cases, the customer may want to order service well ahead of time, and in some such cases, considerably in advance so that lead time is available to print cards and stationery for home businesses, make telephone directory listing deadlines and for other reasons.

It is not unusual, even in the case of relatively basic service requirements, for a customer to anticipate future service needs, and request that the activation date be planned for a time considerably past the service order activation date. If the date requested should exceed the $5 + 45 = 50$ days provided for under the new definitions, the carrier¹⁰ would have to consider advising the customer that a number could not be guaranteed available for that length of time. If a customer started the sequence with good expectation that the prospective dates could be met, and some unforeseen circumstance, such as a delay in construction or late delivery of equipment extended the time beyond 50 days, the carrier may have to withdraw the number from the customer and return it to the *available* status under these new definitions. The customer may have anticipated that service would be effective, arranged for printing of stationery, and notified others of the new number.

¹⁰ In these situations, USTA's perspective is that of its telephone company members, but these factors will also apply to service initiation of any carrier providing telecommunications service and for which a 10 digit terminal number in the NANP is required.

In case of withdrawal of a number, it is unlikely that the customer would be able to subsequently obtain the same number. The need for the carrier to retrieve the number might require a restart of the entire process, because for a new number to be assigned, a new service order might be required. If the number must be withdrawn for return to the *available* status, it would surely be over the objections of the customer, and the carrier would likely be blamed for any inconvenience and loss on the part of the customer. A very likely result will be that the customer, in frustration, will seek out another carrier and start the process all over again.

The combination of effects is that the Commission's new rules arbitrarily limit a carrier and customer to a 50 day planning window without any recourse. If that window is exceeded and the number reclaimed, the number assignment has been broken, the customer will still require a number, and both parties will have suffered inconvenience and loss. These requirements must be reconsidered to avoid such consequences.

In the case of a business request for service, the problems are magnified. In establishing larger businesses or new locations of existing firms, it is normal practice for service orders to precede actual service provision dates by months in order for building wiring to be accomplished, equipment to be installed, stationery to be printed, trucks to be painted and signs made. Often, the timing is related to white and yellow page listing dates. The new definitions that limit the time from service order placement to actual service provision to a total of 50 days are untenable, and the requirement must be reconsidered to eliminate these results. In addition, in the case of larger businesses, blocks of numbers may be needed, and so long as the numbers are in *reserved* status, the

carrier's number utilization calculation will be distorted. All of these factors will provide a disincentive for carriers to offer reservation of numbers at all.

C. Adverse effects of the combined definitions

In the face of such requirements, customers are quite likely to shop around in an attempt to find carriers that have numbers that can be made available. This will create considerable "churn" in the process as carriers assign numbers, move them to *reserved* status and proceed down the sequence of events. In addition, whatever carrier is involved will assign a number to the customer until the service has been implemented or the number is returned to the *available* status. During all of this time, the customer has had a number or numbers assigned. This entire agonizing process results in no greater efficiency of utilization or numbering resources.

If this series of requirements is permitted to go into effect, there will be material harm to customers and to carriers alike. If these requirements are implemented, carriers will have to redesign and reconfigure their administrative support systems to handle a significant increase in new entries due to the increased magnitude of entries that must be processed. If such redesign is done, in order to return system's operation to a more reasonable basis at a later time, it would be necessary to redesign the system again. Once implemented, it is unlikely that the changes could be undone. Because the actions carriers would take are not reversible, it is imperative that the Commission consider these factors carefully in the reconsideration process.¹¹

¹¹ USTA is deeply concerned about the impact of these rule changes on customers and carriers. Therefore, it is filing a Petition for Immediate Partial Stay of the Order insofar as it limits the time a number can be held in *reserve* status and restricts pending numbers to a maximum of 50 days, concurrently with this petition.

We also take note that one of the factors in planning for area code relief is a time factor of 18 months for customers to change their telephone numbers. The industry and the Commission have acknowledged that customers require time to change telephone numbers, but in this instance, the Commission's requirement could give the customer and the carrier a mere 50 days to establish service before a number change would be forced on the parties.

In addition, the Commission makes a point that permitting carriers to retain numbers in reserved status provides an opportunity for "abuse." The Commission's own construct may offer a new such opportunity. If a large carrier with heavy utilization of numbers takes a number back from a customer and places it in the *available* status, the number will certainly be quickly required for assignment to another customer. It will be virtually impossible for the carrier to "protect" the number so that the same number can be reassigned to the same customer.

D. USTA's application of the definition to the appropriate situations

USTA believes that the basic approach adopted by the Commission would be appropriate to a particular set of conditions. As a basis for this, we rely on the following definition of the term pending:

Pending. Begun, but not yet completed; during; before the conclusion of; prior to the completion of; unsettled; undetermined; in process of settlement or adjustment. Awaiting an occurrence or conclusion of action, period of continuance or indeterminacy....¹²

Application of this definition of pending includes the aspect of a decision that has not been made, or while waiting. In the case of activation of a service order, when that event has occurred, no one is waiting for a decision to be made. The customer has committed

¹² *Blacks Law Dictionary* 1134 (6th ed. 1990).

to a business transaction and the carrier must take specific action to prepare to provide service to the customer. Whether service is provided immediately or not, the customer must begin to take actions to utilize the service, such as acquisition of terminal equipment, notification of contacts as to the number and intent to begin service, and other arrangements that must be made. The carrier must incur expenses, programming switches, arranging facilities, populating databases with information. Thus, both parties, even though service may not yet be activated, have begun to prepare to provide and accept the service that has been agreed to. The adopted structure will inappropriately interfere with this normal sequence of events.

In this case, use of *pending* is not appropriate as a term to describe the conditions that prevail. USTA believes that, in this situation, the number has been assigned and must continue to be assigned. The only event that would result in withdrawal of the customer number and reclassification as *available* would be if the service order is invalidated for some reason, or in the case of an active service, service is terminated.

USTA believes that the application of the term *pending*, however, is appropriate to the status of a number that is assigned to a customer during the time that negotiations toward completion of a service order is underway. While discussions and negotiations between a carrier and a potential customer are in progress, it would be appropriate to assign the number for a period of five days, and if an active service order is not activated within that time, the number would then be placed in the *reserved* status. If after the 5 *assigned* + 45 *reserved* days have passed, and no service order has been activated, then the number(s) would be returned to the *available* status.

E. USTA proposal to remedy the deficiencies in the current definition

USTA believes that if a service order is active, then the number is properly classified as *assigned*. In addition, if an active service order does not apply to a number, then the longest time period in which the number can be classified as *assigned* is limited to five days. After that, the number must be classified as *reserved*. This also permits the number to be reclassified as *assigned* as soon as an active service order applies.

Considering the motivation factor, this provision would work to the advantage of all concerned. The customer would have an incentive to activate a service order in order to ensure that the number would remain available, and the carrier could proceed with the arrangements necessary to implement the service.

In order to accomplish this result, USTA proposes that the definition of *assigned* numbers be modified as follows:

Assigned numbers are numbers working in the Public Switched Telephone Network under an agreement such as a contract or tariff at the request of specific end users or customers for their use, or numbers not yet working **but to which an active service order applies**. Numbers that are not yet working and have a service order pending, **but not yet active**, for more than five days shall not be classified as assigned numbers.

II. Implementation of the 45 day reservation period should be delayed until a fee structure for extensions of reserved numbers is evaluated

In its Order, the Commission stated that it will not permit extensions of the 45 day reservation period for numbers.¹³ Pursuant to the new definition of *reserved* numbers,¹⁴ numbers that are held for specific end users or customers beyond 45 days can no longer be classified as *reserved* numbers. However, in the Order, the Commission also stated

¹³ Order at ¶ 24.

¹⁴ 47 C.F.R. § 52.15(f)(1)(vi).

that it may reconsider this position if “an economically sound approach for establishing a fee structure on extensions for reserved numbers can be developed.”¹⁵

USTA notes that the Numbering Resource Optimization (NRO) Working Group (WG) of the North American Numbering Council (NANC) has taken an action item and plans to make a proposal to the NANC concerning fees for *reserved* numbers at its September meeting.¹⁶ We believe that such a fee structure could be a useful tool in the long term conduct of these requirements; however, we emphasize that fees for extensions would not resolve the problems that USTA has raised regarding the five day pending limit and 45 day reservation period in Section (I) above. Application of fees for extensions could be a useful element in the construct that USTA has proposed concerning numbers that would be acceptable for classification as *reserved*.

Until the NANC proposal is available for study, and the Commission has had the time to consider the remedies presented in these petitions for the problems inherent in the current rule structure, the Commission should delay the compliance deadline for the *reserved* number requirements.¹⁷

¹⁵ Order at ¶ 25.

¹⁶ NANC meeting of June 20-21, 2000, Action Items and Decisions Reached (June 23, 2000 draft) at 3. Numbering Resource Optimization (NRO) Working Group. “NRO WG will provide a recommendation on fees for telephone number reservation extensions at the September NANC meeting.”

¹⁷ SBC Communications, ALTS, and NEXTLINK Communications filed an Emergency Petition for Partial Stay on July 7, 2000, in which they asked the Commission to stay imposition of the 45 day reserve period until it resolves the issue related to the imposition of fees for extension of the period. Similarly, BellSouth Corporation filed an Emergency Petition for Partial Stay on July 10, 2000 seeking a stay of the reservation period until the Commission has an opportunity to fully assess the impact of this issue. Grant of those petitions would provide the vehicle to accomplish the result sought by USTA herein. For this reason, USTA supports the Emergency Petitions. As stated in fn. 11, *supra*, USTA is concurrently filing a Petition for Immediate Partial Stay seeking similar relief and urges favorable action by the Commission for the same reason.

III. The basis for selecting NPAs for pooling implementation should be clarified so that selection is based on unconstrained demand

In the Order, the Commission determined that pooling implementation must be limited to those areas in which it will be the most beneficial.¹⁸ To implement this policy, the Commission stated that “NPAs that will exhaust in less than a year, based on the most current quarterly forecast issued by the NANPA at the time the quarterly schedule is established, will not be treated as priority NPAs for pooling purposes.”¹⁹ In addition, the Commission imposed the requirement that an NPA have a remaining life span of at least one year in order for pooling to be implemented.²⁰

USTA is aware that rationing has been implemented or may be implemented in many NPAs. It is also understandable that the number of codes issued in an NPA under rationing will be much less than if rationing were not in place. Accordingly, if the calculation to determine the remaining life of an NPA is based on actual code assignments under rationing, many NPAs could qualify for rationing that should not be so qualified. In order to avoid this distortion of the remaining life of an NPA due to rationing, USTA believes that the calculations to determine the time of an NPA’s remaining life to qualify for pooling deployment must be based on a projection of what the assignments would be if rationing were not in place. We recognize that there may be controversy over the elements of such a calculation. We also note that the North American Numbering Plan Administrator (NANPA) has been tasked and has agreed to

¹⁸ Order at ¶¶ 158, 162.

¹⁹ *Id.* at ¶ 162.

²⁰ *Id.* at ¶ 170.

develop calculations of remaining lives of NPAs, and that it has been stated that those calculations will be based on unconstrained demand.

USTA requests that the Commission clarify that the calculations used to predict the remaining lives of NPAs for qualification for pooling implementation or application of other measures related to number assignment be based on unconstrained demand as determined by the NANPA.

IV. Classification of certain uses of numbers needs to be clarified for utilization level calculations to be accurate

In the Order, the Commission established a formula for calculating utilization levels in which the level in a given geographic area (NPA or rate center) is to be calculated by dividing all assigned numbers (numerator) by total numbering resources assigned to that carrier in the appropriated geographic region (denominator), and multiplying the result by 100.²¹ In support of the underlying motivation for adopting this requirement, the Commission stated that “it will minimize the likelihood that a carrier will retain unneeded numbering resources.”²²

USTA believes that in its pursuit of finding an indirect approach to motivate carriers to retain unneeded numbering resources, the Commission has lost sight of the fact that these requirements will distort the utilization calculation. The effect of these rules is to remove *aging* and *administrative* numbers from the *assigned* category.

In the case of *aging* numbers, calls to those numbers during the process of aging are routed throughout the network and are terminated on voice announcements. These numbers are working in the network and cannot be assigned to any customer or used for

²¹ *Id.* at ¶ 108.

²² *Id.* at ¶ 110.

any other purpose. For these reasons, USTA requests the Commission to clarify the requirement so that any number that is in *aging* and is subject to intercept treatment is properly to be placed in the *assigned* category.

In the case of *administrative* numbers, these are numbers used by a telecommunications carrier to provide service to its own employees required by them in the conduct of official business. The business of telecommunications carrier employees is as legitimate as that of any other commercial enterprise. Furthermore, these numbers are unavailable for assignment to any other customer. In addition, some telephone company offices are in the service territories of other carriers, and the result of this requirement would be to classify as *assigned*, numbers used by employees of a carrier to which that numbering resource was not *assigned*, and to classify as *administrative*, the numbers used by its own employees for the same basic purposes. This result is illogical and must be corrected. Specifically, USTA requests that the Commission correct this inappropriate effect of the rules, and verify that numbers assigned to a telecommunications carrier and used by its own employees in conduct of official business be classified as *assigned*.

USTA also believes that it will not be possible to correct such distortions by unspecified adjustments to the utilization factors. In some cases, a rate center or switch may serve a large percentage of the serving company's own employees, and in others, it is possible that no employees of the company will use company-assigned numbers for official use. It will not be possible to take these variable factors into account in some blanket adjustment of the utilization factor. It is also to be noted that use of numbers will be subject to audit, and the status of numbers assigned by service providers to their own

employees for conduct of official business will be subject to verification. Therefore, such alternative utilization factor adjustments are insufficient and the relief requested above is necessary and appropriate to correct the deficiencies set forth herein.

V. The *aging* number interval definition must be corrected

In the Order, the Commission acknowledged that it intended to adopt the 365 day interval for *aging* numbers previously assigned to business customers that is specified in the Industry Numbering Committee (INC) Guidelines.²³ In the Erratum released July 11, 2000, the Commission corrected the reference in the Order from 360 to 365 days; however, the definition of *aging* numbers was not corrected to reflect that fact.²⁴ USTA requests that Section 52.15(f)(1)(ii) be corrected to state that numbers previously assigned to business customers may be aged for no more than 365 days.

Conclusion

USTA urges the Commission to reconsider its definition of *assigned* numbers so that those numbers not yet working but to which an active service order applies are considered *assigned*. In addition, the definition of *assigned* should be changed so that numbers not yet working and have a service order pending, but are not yet active, for more than five days are considered *assigned*. USTA also advocates that implementation of the 45 day reservation period for numbers should be delayed, pending evaluation of a fee structure for extensions of *reserved* numbers. Furthermore, the Commission should clarify that prediction of remaining lives of NPAs for pooling implementation is to be based on unconstrained demand. The Commission should also clarify that numbers in

²³ *Id.* at ¶ 29.

²⁴ 47 C.F.R. § 52.15(f)(1)(ii).

aging and subject to intercept treatment should be placed in the *assigned* category. Also, the Commission should clarify that numbers assigned to a carrier and used by employees for official business should be classified as *assigned*, rather than *administrative*. Finally, the Commission should correct the definition of *aging* numbers in its rules to reflect that the maximum interval for numbers previously assigned to business customers is 365 days.

Respectfully submitted,

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By

A handwritten signature in black ink, appearing to read "John W. Hunter", is written over a horizontal line.

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CERTIFICATE OF SERVICE

I, Meena Joshi, do certify that on July 17, 2000, Petition For Immeidate Partial Stay and Petition for Clarification and/or Reconsideration Of The United States Telecom Association was either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the the attached service list


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