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

AUG 21 2000

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In the Matter of )  
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 Numbering Resource Optimization )  
 )  
 Implementation of the Local Competition )  
 Provisions of the Telecommunications Act of 1996 )  
 )  
 Petitions for Delegated Authority filed by: )  
 )  
 Arizona Corporation Commission )  
 Colorado Public Utilities Commission )  
 Georgia Public Service Commission )  
 Indiana Regulatory Commission )  
 Iowa Utilities Board )  
 Public Service Commission of Kentucky )  
 Missouri Public Service Commission )  
 Nebraska Public Service Commission )  
 North Carolina Utilities Commission )  
 Oregon Public Utility Commission )  
 Pennsylvania Public Utility Commission )  
 Tennessee Regulatory Authority )  
 Utah Public Service Commission )  
 Virginia State Corporation Commission )  
 Washington Utilities and Transportation )  
 Commission )

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

CC Docket No. 99-200

CC Docket No. 96-98

NSD File Nos.:

L-99-100  
 L-00-16  
 L-99-98  
 L-99-82  
 L-99-96  
 L-00-08  
 L-99-90  
 L-99-83  
 L-99-97  
 L-00-29  
 L-99-101  
 L-99-94  
 L-99-89  
 L-99-95  
 L-99-102

To: The Commission

**APPLICATION FOR REVIEW**

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August 21, 2000

No. of Copies rec'd 0126  
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To: The Commission

**APPLICATION FOR REVIEW**

Pursuant to 47 C.F.R. § 1.115, Verizon Wireless<sup>1</sup> hereby applies for review of the  
Common Carrier Bureau's July 20, 2000 *Order* addressing the captioned petitions by fifteen

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<sup>1</sup> Cellco Partnership, doing business as Verizon Wireless, is a new nationwide competitor that offers wireless products and services coast-to-coast, combining certain domestic cellular, paging, and PCS businesses of Bell Atlantic Mobile, Vodafone AirTouch, PrimeCo Personal Communications, L.P., and GTE Wireless.

state commissions for delegation of additional authority concerning numbering matters.<sup>2</sup> Review is warranted because the Common Carrier Bureau, in the *Order*, has delegated authority to states without ensuring that existing Commission policies will be carried out, despite the Commission's expressed concern that states have not complied with those policies in the past. Review is also warranted to modify and clarify the limits on authority delegated to the states.

Congress has made clear that the administration of numbering is subject to exclusive federal control and that states may be delegated authority to carry out federal policies, not to act as the creators of numbering policy.<sup>3</sup> Congress did not authorize the Commission simply to pass on to the states all of the authority granted to the Commission. There cannot be fifty or more numbering policy agencies for the North American Numbering Plan. The Bureau's *Order*, however, appears to grant states authority that is not constrained by existing Commission policy, and thus leads to the balkanization of numbering administration. Verizon Wireless urges the Commission to assert its plenary authority over numbering and ensure that states act only in compliance with established Commission policy.

**I. STATES SHOULD NOT BE DELEGATED AUTHORITY FOR NUMBER POOLING IN NPAS WITHIN 12 MONTHS OF EXHAUST, UNTIL *AFTER* NPA RELIEF HAS BEEN ORDERED, TO ENSURE SUFFICIENT NXX CODES ARE AVAILABLE FOR NON-LNP-CAPABLE CARRIERS**

The *Order* should be modified by the Commission because, contrary to established Commission policy, it delegates number pooling authority to states without ensuring that there will be timely NPA relief and without ensuring that the pooling states will in fact make adequate provision for non-LNP-capable carriers to obtain needed numbering resources. While the *Order*

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<sup>2</sup> *Numbering Resource Optimization*, DA 00-1616 (CCB July 20, 2000) (*Order*). The state commissions will be referred to herein by their state names.

<sup>3</sup> *See* 47 U.S.C. § 251(e).

is nominally consistent with Commission policies, it provides no assurance that these policies will actually be followed by the states. In light of experience, more is necessary. As shown in this section, the Commission must ensure compliance with its policies by making delegations of pooling authority in NPAs within 12 months of exhaust contingent on ordering NPA relief *first*, ensuring that non-LNP-capable carriers have adequate access to numbers.

The Commission has repeatedly made clear that pooling, rationing, and other conservation measures are no substitute for NPA relief.<sup>4</sup> Its *NRO Order*<sup>5</sup> emphasized the need for effective area code relief as an essential numbering resource mechanism:

*[S]tate commissions must take all necessary steps to prepare an NPA relief plan when it seeks to implement a pooling trial in an NPA which is in jeopardy. Area code relief is ultimately a federal question, although we have delegated to states authority to handle these matters. It is our policy that no carriers should be denied numbering resources simply because needed area code relief has not been implemented.*<sup>6</sup>

Accordingly, the *NRO Order* held that pooling can be instituted *only* if non-LNP-capable carriers can continue obtaining NXX codes unimpeded by the institution of pooling:

*We also emphasize that only those carriers that have implemented LNP capability shall be subject to pooling . . . . Moreover, non-LNP capable carriers operating in NPAs that are subject to pooling shall have the same access to numbering resources as they had prior to the implementation of pooling.*<sup>7</sup>

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<sup>4</sup> *Pennsylvania Public Utility Commission, Memorandum Opinion & Order & Order on Reconsideration*, 13 F.C.C.R. 19,009, 19,026-19,029 (1998), *petitions for reconsideration pending; Numbering Resource Optimization*, CC Docket 99-200, *Notice of Proposed Rulemaking*, 14 F.C.C.R. 10,322, 10,425-10,426 (1999) (*NRO Notice*).

<sup>5</sup> *Numbering Resource Optimization*, CC Docket 99-200, *Report & Order & Further Notice of Proposed Rulemaking*, 15 F.C.C.R. 7574 (2000) (*NRO Order*).

<sup>6</sup> *NRO Order* at ¶ 171 (emphasis added).

<sup>7</sup> *Id.* (emphasis added).

Consequently, any delegation of pooling authority to a state must be contingent on the state *first* making adequate provision for non-LNP-capable carriers to continue obtaining NXX codes.

Given that non-LNP-capable carriers are unable to participate in pooling, the institution of pooling does not, in itself, satisfy the requirements that non-LNP-capable carriers be provided with the “same access to numbering resources as they had prior to the implementation of pooling” or that they not “be denied numbering resources simply because needed area code relief has not been implemented.” Indeed, in some cases, non-LNP-capable carriers have had their access to numbering resources dramatically curtailed by the institution of pooling, despite similar language in delegation orders.

For example, in the 909 NPA, when California ordered that number pooling start in December 2000, it allocated 27 of the NPA’s 55 remaining NXX codes to the pool, leaving only 28 codes for non-LNP-capable carriers. Moreover, the latter codes are rationed based on a lottery, rather than need, and California also cut back the rate of rationing, further diminishing carriers’ access to numbering resources. California took this action without any NPA relief plan or backup plan in place — indeed, it suspended an existing two-phase relief plan that would have implemented a geographic split with permissive dialing scheduled to begin on February 12, 2000 and mandatory dialing beginning on September 9, 2000, and an overlay to be implemented on February 10, 2001. California took these actions even though the Bureau’s *California Delegation Order* said that California must implement timely NPA relief, must make provision for non-LNP-capable carriers to have continued, undiminished access to numbering resources, and must not use pooling and rationing as a substitute for NPA relief.<sup>8</sup>

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<sup>8</sup> See *California Public Utilities Commission Petition for Delegation of Additional Authority*, 14 F.C.C.R. 17,486 at ¶¶ 9, 15, 22, 39 (CCB 1999).

The Bureau's *Order* here, like the *California Delegation Order*, recited the Commission's policies about NPA relief, but did nothing to ensure that those policies would be carried out. For example, the *Order* stated:

The grants of authority herein are not intended to allow the state commissions to engage in numbering conservation measures to the exclusion of, or as a substitute for, *unavoidable and timely area code relief*.<sup>9</sup>

In addition, the *Order* directed states to "implement area code relief when necessary" and said they should "fulfill this obligation in a timely manner" and must "be prepared to implement immediately a 'back-up' NPA relief plan prior to the exhaustion of numbering resources."<sup>10</sup>

Despite this seemingly forceful language, the *Order* lacks teeth. In the *NRO Order*, the Commission acknowledged that its prior delegations of authority had raised questions concerning the states' commitment to fulfilling their NPA relief obligations.

A number of carriers have raised concerns in this proceeding that some states may not be developing and implementing area code relief plans in a timely manner. We are troubled by these allegations, and we will closely monitor these situations to ensure that federal numbering policies are followed.<sup>11</sup>

Given the past problems, the Bureau was obligated to pay particular attention to state delegation requests that posed a risk of untimely NPA relief, and to take steps to ensure that Commission policies would be followed. It did not do so in the *Order*, however. The *Order* grants states authority to initiate pooling even where exhaust is demonstrably imminent and no NPA relief plan is in place. For example, the *Order* allows Utah to proceed with pooling in the 801 NPA, even though the official projected exhaust date is first quarter of 2001 and Utah estimates that

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<sup>9</sup> *Order* at ¶ 11 (emphasis added).

<sup>10</sup> *Order* at ¶¶ 11, 17.

<sup>11</sup> *NRO Order* at ¶ 171 (emphasis added).

exhaust will occur by the second or third quarter of 2001.<sup>12</sup> Moreover, the Commission notes that Utah “has expressed concern that the early-on telecommunications demand of the 2002 Winter Olympics could potentially wipe out numbering resources.”<sup>13</sup> Despite this evidence of imminent exhaust, the *Order* did not require Utah to institute NPA relief prior to implementing pooling. This does not constitute reasoned decisionmaking.

The Commission should require that any state delegated authority to implement pooling institute NPA relief at least twelve months prior to projected exhaust, and that no pooling may be instituted in an NPA within twelve months of exhaust until NPA relief has been ordered. Twelve months is certainly “imminent” exhaust, given the need for public education, permissive dialing and mandatory dialing procedures, and the extensive technical work that needs to be accomplished before a split or overlay becomes effective.

Moreover, the Commission should make clear that in computing the time remaining to exhaust, the life of an NPA cannot be artificially extended by rationing. For an NPA, the time to exhaust is the time remaining before the actual or projected demand for NXX codes exceeds the available supply. Under INC guidelines, any NPA “relief effort should be planned to be completed at least three months before the existing NPA would exhaust under the *highest* growth projections.”<sup>14</sup> This relief effort should be based on an exhaust date that would accommodate actual growth, as projected, without artificially reducing growth to the level of supply, under a rationing scheme. Otherwise, an exhaust date could be prolonged almost endlessly by the simple

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<sup>12</sup> *Order* at ¶ 48; see also NANPA’s *Status of Active and Pending NPA Relief Projects*, available at <<http://nanpa.planet.net/reports/report.pdf>> (current version, viewed August 18, 2000, projects exhaust occurring first quarter of 2001).

<sup>13</sup> *Order* at ¶ 48.

<sup>14</sup> Industry Numbering Committee, *NPA Code Relief Planning & Notification Guidelines*, INC97-0404-016 (Nov. 8, 1999), at ¶ 7.3.

expedient of doling out far fewer resources than are needed to accommodate legitimate demand. Carriers' numbering needs should not be reduced arbitrarily in accordance with a rationing schedule in determining the life of the NPA.

**II. THE COMMISSION SHOULD ENSURE THAT STATES AUTHORIZED TO ORDER NXX CODE SHARING DO NOT REQUIRE MORE THAN ONE CMRS CARRIER TO SHARE A GIVEN NXX CODE PRIOR TO LNP CAPABILITY**

The *Order* authorizes several states to order NXX code sharing among non-LNP-capable carriers and encourages them to conduct studies of the technical and economic feasibility of such sharing. It permits them “to implement NXX code sharing on a trial basis if they find that NXX code sharing is technically feasible and economically viable.”<sup>15</sup> Verizon Wireless is concerned that this could be interpreted as authorizing states to mandate wireless carriers' participation in code sharing tests under circumstances where it is not technically feasible. Specifically, code sharing is not feasible, for technical reasons, for more than one wireless carrier per NXX code, with certain limited exceptions. Roaming for cellular and PCS is premised on the use of the NXX code to identify the home carrier associated with a given mobile unit.<sup>16</sup> This identification is essential for authorization, verification, and billing associated with roaming. For that reason, the INC CO Assignment Guidelines state that “not more than one wireless carrier should utilize numbers from a single NXX.”<sup>17</sup> Accordingly, the Commission should clarify that states may not

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<sup>15</sup> *Order* at ¶ 61.

<sup>16</sup> Since paging is not part of the roaming system used for cellular and PCS, this technical limitation does not apply to paging carriers.

<sup>17</sup> Industry Numbering Committee, *Central Office Code (NXX) Assignment Guidelines*, INC 95-0407-008 (Nov. 8, 1999), at ¶4.3; *see also id.* at n.11 (“In certain situations there are technical, billing, service delivery, roaming, and/or tariff reasons that require partial and/or different NXX assignments.”).

order two or more wireless carriers to share a single NXX code prior to the wireless industry's becoming LNP-capable.

### **III. THERE IS NO JUSTIFICATION FOR AUTHORIZING RATIONING FOR SIX MONTHS BEYOND NPA RELIEF**

The *Order* grants several states authority to maintain rationing procedures for six months following area code relief.<sup>18</sup> Verizon Wireless urges the Commission to reverse this decision as unjustified and contrary to the public interest. Rationing is an inefficient means of allocating numbering resources because it assigns numbers arbitrarily, and not based on demonstrated need, as an artificial way to forestall complete number exhaust. Indeed, Verizon Wireless submits that rationing has been overused to delay necessary area code relief and other optimization measures and should not be relied on as a conservation measure.

The Commission has now provided, through its *NRO Order*, tools to provide for effective numbering resource utilization and conservation. Utilization data will be reviewed and numbers reclaimed where not used appropriately. The tools now made available to NANPA and the states will ensure effective distribution of the numbering resource and will prevent situations where carriers are not utilizing numbers efficiently. In these circumstances, rationing is an artificial and ineffective scheme and should no longer be deemed an acceptable conservation measure.

Again, where area code relief and pooling are implemented, rationing is not appropriate. Carriers who need numbering resources should not be relegated to filing for extraordinary relief; instead numbers should be obtained on a needs-based showing. Further, after jeopardy has been addressed by the institution of necessary NPA relief and other related measures, there is no continuing justification for maintaining this inefficient system for number distribution.

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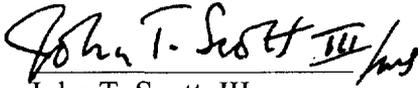
<sup>18</sup> *Order* at ¶¶ 62-63.

**CONCLUSION**

For the foregoing reasons, Verizon Wireless urges the Commission to grant review of the *Order* and to modify the delegations of authority as stated herein.

Respectfully submitted,

**VERIZON WIRELESS**

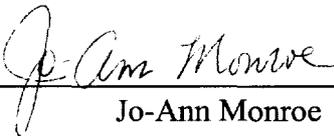
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August 21, 2000

**CERTIFICATE OF SERVICE**

I, Jo-Ann Monroe, hereby certify that on this 21st day of August 2000, copies of the foregoing "Application for Review" were served by First Class U.S. Mail on the respective State Commissions whose petitions were addressed in the order that is the subject of the application.

  
\_\_\_\_\_  
Jo-Ann Monroe