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October 11, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TW-A325
Washington, D.C. 20554

Re: Allegiance Telecom of Massachusetts, Inc.
Reply Comments in CC Docket No. 96-98; NSD-L-00-169

Dear Ms. Salas:

On behalf of Allegiance Telecom of Massachusetts, Inc. ("Allegiance"), enclosed please find an original and four copies of Allegiance's reply comments in the above-referenced docket. An electronic copy of Allegiance's reply comments is being concurrently filed through the Common Carrier Bureau's Network Services Division.

Should you have any questions with respect to this matter, please do not hesitate to call.

Respectfully submitted,


Jeanne W. Stockman

Counsel for Allegiance Telecom of Massachusetts, Inc.

Enclosure

cc: Lyndall Nipps
Jeannie Grimes (electronic copy)
ITS

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

In the Matter of)	
)	File No. NSD-L-00-169
Massachusetts)	
Department of Telecommunications)	CC Docket No. 96-98
and Energy Petition for Delegation of)	
Additional Authority to)	
Implement Number Conservation)	
Measures in Massachusetts)	

REPLY COMMENTS OF
ALLEGIANCE TELECOM OF MASSACHUSETTS, INC.

Allegiance Telecom of Massachusetts, Inc. ("Allegiance") by undersigned counsel and pursuant to the Common Carrier Bureau's August 29, 2000 Public Notice,¹ submits its reply comments in the above-captioned proceeding. Allegiance agrees with the positions advanced by numerous commenters opposing the rationing authority requested by the Massachusetts Department of Telecommunications and Energy ("Department") in its Petition.² Allegiance submits that the Department should be granted authority no broader than that provided in the FCC's *Number Resource Optimization Order*,³ and that any such authority should conform to the national

¹ *Common Carrier Bureau Seeks Comment on the Massachusetts Department of Telecommunications and Energy Petition for Delegation of Additional Authority to Implement Number Conservation Measures in Massachusetts*, NSD File No. L-00-169, Public Notice, DA 00-1982 (rel. Aug. 29, 2000).

² *Massachusetts Department of Telecommunications and Energy's Petition for Delegation of Additional Authority to Implement Number Conservation Measures in Massachusetts*, CC Docket 96-98, filed August 3, 2000 ("Petition").

³ *Numbering Resource Optimization*, CC Docket No. 99-200, FCC 00-104, *Report and Order and Further Notice of Proposed Rulemaking* (rel. Mar. 31, 2000) ("*Number Resource*

framework in such order. Finally, Allegiance respectfully requests that any order from the Commission on this matter acknowledge the benefits of rate center consolidation ("RCC") as an effective number conservation method and recommend that the Department examine this tool to enhance the overall effectiveness of its number conservation scheme.

I. Any Numbering Authority Granted to the Department Should Be Consistent with the *Number Resource Optimization Order*.

Allegiance agrees with the position advanced by several commenters that the rationing authority requested by the Department is unwarranted in light of the Commission's new numbering rules.⁴ Under the rules adopted in the *Number Resource Optimization Order*, carriers must demonstrate need in order to obtain initial and growth numbering codes.⁵ The showings of need required by the FCC's rules should be sufficient to prevent hoarding of numbering resources. Further, the circumstances described by the Department do not justify a departure from the policies established in the *Number Resource Optimization Order*. The Department is not facing the same or similar statutory public participation requirements as was the California Public Utilities Commission ("CPUC") when it was granted rationing authority.⁶ Most seriously, however, is that rationing would hinder the ability of other carriers such as Allegiance to obtain numbering resources

Optimization Order").

⁴ See, e.g., Comments of RCN-BecoCom, LLC at pp. 5-6 ("RCN Comments"); Comments of Sprint Corporation at pp. 3-4 ("Sprint Comments").

⁵ See 47 C.F.R. § 52.15(g).

⁶ In California, the CPUC is subject to statutory requirements that require public participation in area code relief processes at least 30 months prior to the submission of a recommended relief plan. *California Public Utility Commission Petition for Delegation of Additional Authority Pertaining to Area Code Relief and NXX Code Conservation Measures*, CC Docket No. 96-98, FCC 99-248, *Order* (rel. Sept. 15, 1999).

when a *bona fide* need exists. Thus, in the absence of truly compelling circumstances, the Commission should refrain from granting authority to state commissions to set or revise rationing procedures because of the potential harm rationing poses to carriers. Accordingly, Allegiance respectfully requests that the Commission decline to extend rationing authority to the Department.

Moreover, as RCN notes, the implementation of nationwide number pooling should begin within the next year. Thus, Allegiance agrees that any pooling trial granted to the Department should be consistent with the national framework to avoid wasting scarce carrier resources to transition from one pooling framework to another.⁷

II. RATE CENTER CONSOLIDATION IS A NECESSARY PART OF A COMPREHENSIVE NUMBER CONSERVATION SCHEME AND SHOULD BE ENCOURAGED TO PRESERVE SCARCE NUMBERING RESOURCES.

The Department's Petition seeks broad numbering authority to stave off the exhaustion of limited numbering resources through TNP and rationing, but does not specifically mention RCC. Allegiance notes that the Department need not specifically request authority from the Commission to engage in RCC, but submits that recent experiences in other states underscore that TNP may be insufficient on its own to yield meaningful number conservation. California recently passed a plan providing for a geographic split of the 310/424 area codes. While pooling had been ongoing in that region, and had delayed the need for area code relief, pooling did not prevent the ultimate need to engage in area code relief.⁸ As CPUC Commissioner Duque observed, pooling only served to

⁷ RCN Comments at p. 4.

⁸ See Exhibit A, attached statement of CPUC Commissioner Henry M. Duque at p. 2.

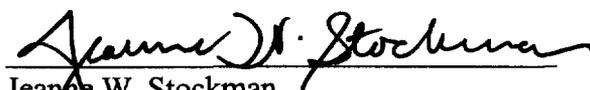
prolong the inevitable.⁹ Allegiance respectfully submits that greater number conservation can be achieved by TNP and RCC than that of TNP alone. Encouraging state commissions to engage in RCC and will preserve scarce numbering resources by allocating them more efficiently, and more likely to avoid the immediate need for costly and inconvenient area code relief than the use of TNP alone. Because of the benefits of RCC to overall number conservation, Allegiance respectfully requests the Commission to encourage the Department to explore this valuable conservation tool.

⁹ *Id.* In fact, the Department concluded not to implement TNP in eastern Massachusetts because TNP, on its own, was going to be insufficient to ward off area code relief in eastern Massachusetts. Petition of Lockheed Martin IMS, the North American Numbering Plan Administrator, for Area Code Relief for the 508, 617, 781 and 978 Area Codes, DTE 99-11, 99-99, Order, April 25, 2000.

IV. Conclusion

For the foregoing reasons, Allegiance respectfully requests that any numbering relief granted by the Commission be consistent with the *Number Resource Optimization Order* and that the Commission encourage the Department's use of RCC as part of a comprehensive number conservation scheme to achieve maximum conservation benefits.

Respectfully submitted,



Jeanne W. Stockman

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Counsel to Allegiance Telecom of Massachusetts, Inc.

Dated: October 11, 2000

EXHIBIT A



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Back-up Plan to Split the 310 Area Code Along Imperial Highway

(Item H-1, September 21, 2000)

Henry M. Duque
Commissioner

- Henry M. Duque
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Colleagues:

For some time, proceedings concerning numbering issues have led me to file dissents. My dissents noted that our decisions failed to comply with federal law and FCC regulation. My dissents further stated that our policies would fail to provide numbers to consumers who need them. Today, however, I find that I can largely support Item H-1 as proposed by Commissioner Lynch. I plan to explain my reasoning.

First, Item H-1 adopts a back-up plan to provide relief to the 310 area code. The back-up plan would split the 310 area code along Imperial Highway, with everyone to the south getting the new area code of 424. Although I would have preferred a 7-digit overlay with all residents keeping their current number, I am pleased to cast a vote that brings the Commission closer to the point of providing relief in this area code and closer to complying with Federal law.

Second, Item H-1, as revised, now ensures that Commission actions will not jeopardize the Emergency 911 service on the Westside. The proposed decision notes that the network changes required to prepare the E-911 network and the emergency call centers. It is my understanding that the Los Angeles Fire Department, for example, has older 911 equipment that would be particularly threatened by a hasty split. When I raised this point, Commission staff worked assiduously to get to the bottom of this issue. This revised Item H-1 now explicitly delays a split until the work to ensure the reliability of 911 service is complete.

Third, Item H-1 orders carriers to take all the technical actions needed to implement a split. Here, Item H-1 forges new ground. In the past, the Commission has ordered the implementation steps needed to split an area code only when we found that the time had arrived to order a split. By the steps we

take today, the Commission can cut months off the time needed to proceed from Commission order to the actual split of this area code. In particular, after adopting Item H-1, the 310 area code could be ready to commence the process leading to a split soon. If the audit is complete by November 17, and comments filed, then the Commission will be in a position to order the implementation of a split in late November or early December. There would then follow two months to the beginning of permissive dialing, three months of permissive dialing, and two months of mandatory dialing. Thus, by next summer, at the earliest, new numbers would be available for the 310 area code.

Unfortunately, this timetable will have serious consequences for the wireless industry in Los Angeles. The Cellular Carriers Association made an emergency filing in August testifying to their need for phone numbers. Only Sprint's good fortune in the August lottery enabled it to provide local numbers to those in the Beverly Hills exchange that wish to have a cell phone. Thus, the current situation is already pretty grim. For this reason, I suspect that the Holiday Season will prove difficult for those wishing to sell or purchase cellular phone service in the 310 area code. Item H-1 offers no hope to these carriers or customers. For this reason, I will file a concurrence stating that I believe the Commission should release all codes held in reserve to meet the demands of the wireless industry.

There is, however, one remaining step that we need to take – the Commission must simply admit that 310 has exhausted, and that we are done. The pooling authority granted under a petition I spearheaded is working, as are other conservation measures. These steps have delayed the split for almost a year. Nothing, however, can prevent the need for relief. I hope this step will quickly follow the audit.

Despite this reservation, I complement Commissioner Lynch for facing the difficult numbering issues that she has inherited. I hope that we all support Commissioner Lynch in the difficult months ahead. She and we will struggle with the legacy of the numbering policies adopted by the Commission's majority for 310 long before she began her tenure as Commissioner. Things will prove difficult both as numbers run out and as we implement the split in this area code.

For these reasons, I will vote in favor of H-1, and file a concurrence. My concurrence will support the decision in general, but I will file a partial dissent to note my conclusion that the reduction in the lottery to two codes every other month is not the best policy for California. We should simply provide numbers to cellular carriers who demonstrate a need for the numbers – holding them in reserve no longer serves a purpose. This, however, is a minor quibble with a draft decision that takes constructive steps to address a critical situation.

Thank you.

Voting Results

The Commission adopted Item H-1 by a vote of 4-1 (Bilas, Duque, Lynch and Wood voting yes; Neeper voting no). Commissioner Duque will file a concurrence.