

authority to order mandatory number pooling.¹³⁷ The *Pennsylvania Numbering Order*, however, encouraged state commissions to seek limited delegations of authority to implement other number conservation measures.¹³⁸

C. Federal Guidelines for Area Code Relief

56. *Background.* As discussed above, state commissions were delegated the authority to direct the form of area code relief, to perform the functions associated with initiating and planning area code relief, and to adopt final area code relief plans, subject to the Commission's guidelines for numbering administration.¹³⁹ In the *Notice*, we sought comment generally on whether we should amend the existing federal guidelines or develop additional federal guidelines for area code relief, to facilitate the optimization of numbering resources.¹⁴⁰

57. *Discussion.* We decline to amend the existing federal rules for area code relief or to specify any new federal guidelines for the implementation of area code relief at the present time. State commissions may continue to authorize area code relief in accordance with previous Commission rulings. We continue to believe that state commissions are uniquely positioned to determine when, and in what form, to implement area code relief.¹⁴¹

58. Some commenters suggest that the Commission should impose limits on the time state commissions may take to complete the implementation process for new area codes.¹⁴² We decline to do so at this time. We agree that timely implementation of area code relief is critically important to telecommunications carriers' ability to compete in the telecommunications marketplace. We are also, however, sensitive to the states' desire to minimize the consumer impact of area code relief by not implementing new area codes any sooner than necessary. Recent experiences have revealed how difficult it is to balance both of these concerns.

59. NANP administration must reflect sensitivity to the growth and dynamic nature of the telecommunications industry. The ready availability, and use, of numbering resources by communications service providers is essential to the public receiving the communications services it wants and needs. Unavailability of numbers, or an inefficient allocation of available

¹³⁷ *Id.* at 19027, para. 27. Subject to conditions, we permitted state commissions to withhold a certain number of NXX codes within a new area code for purposes of number pooling. *Id.*

¹³⁸ *Id.* at 19030, para. 31.

¹³⁹ *Local Competition Second Report and Order*, 11 FCC Rcd at 19512, para. 271.

¹⁴⁰ *Notice*, 14 FCC Rcd at 10427, para. 247.

¹⁴¹ See California Commission Comments at 43; Ohio Commission Comments at 40. State commissions face an enormous burden in determining when, and in what form, to implement area code relief. In the initial stages, state commissions must expend resources to convene public meetings and to plan for area code relief. They must also work with the NANPA and the industry to effect the chosen area code relief plan, and bear the costs of notifying the public. Furthermore, state commissions inevitably bear the brunt of consumer dissatisfaction with whatever method of area code relief is chosen.

¹⁴² AirTouch Comments at 13; Sprint Comments at 24.

numbers, could prevent or discourage consumers from taking new services.¹⁴³ Thus, the timely implementation of area code relief is essential if new providers are to enter and new services are to appear in the telecommunications marketplace. We continue to believe that we must rely on state commissions to make area code relief decisions because of their unique position to ascertain and weigh the very local and granular information inherent in area code relief decision making. In addition, no commenter has proposed a workable federal rule or "trigger" to require area code relief if states fail to implement it in what they believe to be a timely manner. Because of the importance of this issue to competition, however, we emphasize that we will continue to monitor area code relief carefully, and reserve the right to take a stronger role in this process should circumstances warrant. We acknowledge that the decision of when to implement area code relief is difficult, and that consumers can be harmed if new area codes are implemented too early or too late. The implementation of new area codes before they are necessary forces consumers to go through the expense and dislocation of changing telephone numbers or dialing patterns earlier or more often than necessary. On the other hand, delayed implementation of necessary area code relief can leave carriers without the numbering resources they need to provide consumers with the services they are demanding.¹⁴⁴ Long term rationing and other restrictions on access to numbers poses an insidious threat to competition, as it can cause carriers to move their business to where numbers are more readily available, robbing consumers of competitive choices.

60. In general, numbering administration should promote entry into the communications marketplace by making numbering resources available on an efficient and timely basis, should not unduly favor or disadvantage a particular industry segment or group of consumers, and should not unduly favor one technology over another.¹⁴⁵ In applying these principles, state commissions must take all necessary steps to prepare an NPA relief plan that may be adopted by the state commission when numbering resources in the NPA are in imminent danger of being exhausted.¹⁴⁶ Furthermore, the implementation of any numbering resource optimization measures adopted in this proceeding does not eliminate the need for states to continue to implement area code relief in those area codes that are approaching depletion.¹⁴⁷

61. We also reaffirm our commitment to the guidelines enumerated in the *Pennsylvania Numbering Order* regarding the rationing of NXX codes. In prior orders, we have declined to grant state commissions authority to adopt NXX code rationing procedures prior to

¹⁴³ See Bell Atlantic Comments at 39 (stating that area code relief has been delayed with accompanying harm to consumers).

¹⁴⁴ Section 253 of the Act provides that no state requirement may prohibit or have the effect of prohibiting the ability of any entity to provide telecommunications service. 47 U.S.C. § 253(a).

¹⁴⁵ 47 C.F.R. § 52.9(a)(1)-(3).

¹⁴⁶ See, e.g., Paging Network Comments at 2.

¹⁴⁷ As determined in the *Pennsylvania Numbering Order*, state commission implementation of number conservation measures could not be used as "substitutes for area code relief or to avoid making difficult and potentially unpopular decisions on area code relief." See *Pennsylvania Numbering Order*, 13 FCC Rcd at 19027, para. 26.

adopting an area code relief plan, except in the most extreme circumstances.¹⁴⁸ Some commenting parties suggest, nonetheless, that more and more states are relying on rationing as a means to defer area code relief.¹⁴⁹ As determined in the *Pennsylvania Numbering Order*, the rationing of NXX codes should only occur when it is clear that an NPA will run out of NXX codes before timely implementation of a relief plan.¹⁵⁰ Rationing may only be used to ensure that an area code does not exhaust completely before the state commission, acting expeditiously, can implement a new area code. Specifically, a state commission may order rationing only if it has ordered a specific form of area code relief and has established an implementation date, and the industry is unable to agree on a rationing plan.¹⁵¹ If the state commission has not yet chosen a relief method and established a relief date, the NANPA, as central office code administrator, and the industry should devise the jeopardy conservation or rationing measures, consistent with the current industry practice. We also emphasized in the *Pennsylvania Numbering Order* that state commissions may not use rationing as a substitute for area code relief.¹⁵² We intend to closely monitor situations where states may be using central office code rationing in lieu of timely area code relief and may take appropriate action if we deem it necessary to ensure our rules are followed.¹⁵³ Under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for a want of numbering resources. For consumers to benefit from the competition envisioned by the 1996 Act, it is imperative that competitors in the telecommunications marketplace face as few barriers to entry as possible.

D. Geographic Splits Versus All-Services Area Code Overlays

62. *Background.* A geographic split occurs when the geographic area served by an area code is split into two or more geographic regions and one region maintains the old area code

¹⁴⁸ See, e.g., *Florida Public Service Commission Petition for Expedited Decision for Grant of Authority to Implement Number Conservation Measures*, Order, 14 FCC Rcd 17506, 17522, para. 40 (1999) (*Florida Delegation Order*); *Massachusetts Department of Telecommunications and Energy Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes*, Order, 14 FCC Rcd 17447, 17464, para. 41 (1999) (*Massachusetts Delegation Order*); *New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures*, Order, 14 FCC Rcd 17467, 17481-82, para. 32, 33 (1999) (*New York Delegation Order*); but see *California Public Utilities Commission Petition for Delegation of Additional Authority Pertaining to Area Code Relief and NXX Code Conservation Measures*, Order, 14 FCC Rcd 17485, 17503-04, para. 37, 40 (1999) (*California Delegation Order*); (noting that unique circumstances exist in California which require public participation in the area code relief planning process at least 30 months prior to the submission of a recommended relief plan to the California Commission).

¹⁴⁹ See, e.g., AT&T Comments at 64.

¹⁵⁰ *Pennsylvania Numbering Order*, 13 FCC Rcd at 19025-26, para. 24.

¹⁵¹ *Id.*

¹⁵² *Pennsylvania Numbering Order*, 13 FCC Rcd at 19027, para. 25; see also *First Report and Order*, 15 FCC Rcd at 7581, para. 7.

¹⁵³ See *First Report and Order*, 15 FCC Rcd at 7652, para. 171; see also Letter from William E. Kennard, Chairman, FCC, to Loretta M. Lynch, President, California Commission, dated October 18, 2000.

and one (or more) receive one (or more) new area codes.¹⁵⁴ An all-services area code overlay occurs when a new area code is introduced to serve the same geographic area as an existing area code.¹⁵⁵ The Commission has concluded that, if a state commission chooses to implement an all-services overlay, the all-services overlay plan must include mandatory ten-digit local dialing by all customers between and within area codes in the area covered by the new code.¹⁵⁶ NANPA data reveal that state commissions implement new area codes through the implementation of geographic splits significantly more often than through the use of overlays.¹⁵⁷ In the *Notice*, we sought comment on the advantages and disadvantages of all-services overlays and geographic splits from a numbering resource optimization perspective, and whether there is a need for additional rules or guidelines at the federal level with respect to the implementation of geographic splits by state authorities.¹⁵⁸ We also sought comment on whether there is a need to modify our existing guidelines with respect to the implementation of all-services overlays.¹⁵⁹

63. *Discussion.* Several commenting parties identified a number of disadvantages of geographic splits as a measure of area code relief when compared with overlays.¹⁶⁰ For example, SBC states that, from a numbering resource optimization perspective, geographic splits result in the less efficient use of NPA resources, especially where carriers stand in line on one side of the geographic split while resources sit unused and unusable, on the other side.¹⁶¹ Geographic splits also require approximately half of the subscribers in the existing NPA to change to the new NPA. As a result, these subscribers may incur additional cost, including disruption to users due to the need for reprogramming Customer Premises Equipment (CPE) and changes made to stationery and advertising.¹⁶² Because geographic splits require approximately half of the subscribers in the existing NPA to change to a new NPA, successive geographic splits create substantial costs for

¹⁵⁴ 47 C.F.R. § 52.19(c)(1).

¹⁵⁵ 47 C.F.R. § 52.19(c)(3).

¹⁵⁶ *Local Competition Second Report and Order*, 11 FCC Rcd at 19518, para. 286.

¹⁵⁷ Of the over 100 area codes introduced in the United States since 1995, 17 have been accomplished through all-services overlays. See NANPA, *NPAs Introduced*, November 1, 2000. This document is available at <http://www.nanpa.com/area_codes/npa_introduced.html>.

¹⁵⁸ *Notice*, 14 FCC Rcd at 10428, para. 249.

¹⁵⁹ *Id.* at 10429, para. 252.

¹⁶⁰ Numbering Resource Optimization Working Group Modified Report to the North American Numbering Council on Number Utilization Methods (Oct. 21, 1998) at § 14.0 (NANC Report). This report is available at <<http://www.fcc.gov/ccb/Nanc/nanccorr.html>>. WorldCom states that geographic splits should be preferred if they can be implemented in a way that recognizes actual community geography. See WorldCom Comments at 61.

¹⁶¹ SBC Comments at 97.

¹⁶² North Carolina Commission Comments at 17; WHERE HAVE ALL THE NUMBERS GONE? at 16. The tangible costs that consumers may experience include time and effort associated with notifying others of the change in area code, increased confusion and difficulty in competing calls to parties whose area codes have changed, monetary costs associated with reprinting stationery with the new area code, and time and effort associated with reprogramming telephone automatic dialing systems, and other equipment, to incorporate the new area code. *Id.*

subscribers, thus increasing the consequences associated with inaccurately forecasting growth versus non-growth areas. Splits can also often create dialing confusion by requiring customers to use one dialing pattern for some calls (seven digits) and another dialing pattern for others (ten digits).¹⁶³

64. Other commenters identified a number of advantages of geographic splits as a measure of area code relief. For example, the Ohio Commission states that geographic splits can be implemented in many NPAs with minimal effects on the vast majority of callers' seven-digit local calling patterns.¹⁶⁴ Thus, with the implementation of geographic splits, any given customer's premises will be served by one NPA, and customers maintain seven-digit intra-NPA dialing.¹⁶⁵ Geographic splits also allow customers the ability to associate an NPA with a unique geographic area.¹⁶⁶ Moreover, geographic splits allow for equal availability of unassigned NXXs in both the new and the old NPA to all industry segments.¹⁶⁷ Other commenters suggest that splits are competitively neutral and offer the benefits of increased competition.¹⁶⁸

65. Although we recognize that there are advantages and disadvantages to geographic splits as a form of area code relief, we decline to follow the recommendations of parties urging that we enumerate additional rules or guidelines at the federal level with respect to the implementation of geographic splits. We agree with the North Carolina Commission that state commissions continue to need the flexibility to make decisions regarding area code relief and to set the boundaries of a geographic split in the most appropriate way, considering the technical implications for carriers' networks, the local circumstances, consumer preferences, and communities of interest.¹⁶⁹ Although we do not establish additional rules or guidelines regarding the implementation of geographic splits at the present time, we require the state commissions to abide by the same general requirements that this Commission has imposed on the NANPA with regard to numbering administration. Thus, state commissions that choose to implement geographic splits must ensure that numbering resources are made available on an equitable basis; that numbering resources are made available on an efficient and timely basis; that relief not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers; and that the relief not unduly favor one telecommunications technology over another.

66. Several commenting parties also identified a number of advantages of all-services overlays as a measure for area code relief. From a numbering optimization perspective, an all-

¹⁶³ Bell Atlantic Comments at 38.

¹⁶⁴ Ohio Commission Comments at 40.

¹⁶⁵ RCN Comments at 16.

¹⁶⁶ North Carolina Commission Comments at 17.

¹⁶⁷ NANC Report at § 14.

¹⁶⁸ AT&T Comments at 5; Level 3 Comments at 12; RCN Comments at 16.

¹⁶⁹ See North Carolina Commission Comments at 17; see also Ohio Commission Comments at 40 (noting that additional constraints on geographic splits should not be implemented).

services overlay creates a new numbering resource that is available for use throughout the entire geographic area covered by the old NPA code,¹⁷⁰ allowing resources to follow demand throughout an area receiving area code relief. As a result, the consequences associated with inaccurately forecasting growth versus non-growth areas may be reduced. Other commenters note that all-services area code overlays are the least disruptive means of providing numbering relief because overlays only affect the assignment of new numbers; existing consumers are not required to change their telephone numbers, in contrast to geographic splits.¹⁷¹ Businesses avoid the expense of reprinting stationery and business cards, and they will not lose any business opportunities or goodwill due to missed calls.¹⁷² This advantage is particularly significant in high-demand areas where there is a need for more frequent area code relief, because prospective all-services overlays can be implemented without requiring existing consumers to change their telephone numbers, in contrast to geographic splits. Moreover, some commenting parties suggest that area code overlays can be implemented quickly and are perhaps less expensive to implement than splits because no customers are forced to change their numbers.¹⁷³

67. Some commenters identified a number of disadvantages of all-services overlays.¹⁷⁴ First, customers must use ten-digit dialing for calls in their own area, both to call numbers that use the overlay area code and, pursuant to the Commission's mandate, to call numbers within their own area code.¹⁷⁵ Thus, although an overlay does not require existing customers to change their own telephone numbers, it leads to additional costs associated with ten-digit dialing and it reduces the ability of customers readily to identify geographic areas with specific NPAs.¹⁷⁶ Second, from a numbering optimization perspective, if an all-services overlay is implemented on a prospective basis (*i.e.*, no existing customers are reassigned to the new NPA), it does not free up new numbering resources within the existing NPA. Thus, new entrants in a market are less likely to be able to obtain numbers in the existing NPA, and therefore may be less able to compete effectively against incumbents for customers desiring numbers in the existing NPA. Furthermore, Cox contends that there is no inherent benefit to all-services overlays because all-services overlays do not increase the total numbering resources throughout the NPA.¹⁷⁷

68. Some commenting parties state that all-services overlays should be the preferred

¹⁷⁰ BellSouth Comments at 18; PrimeCo Comments at 10; SBC Comments at 94.

¹⁷¹ Bell Atlantic Comments at 38; Small Business Alliance Comments at 3.

¹⁷² SBC Comments at 94; Small Business Alliance Comments at 3.

¹⁷³ Bell Atlantic Comments at 38; BellSouth Comments at 20.

¹⁷⁴ NANC Report at § 12.1.

¹⁷⁵ *Local Competition Second Report and Order*, 11 FCC Rcd at 19518, para. 287.

¹⁷⁶ NANC Report at § 12.1; *see also* Cox Comments at 24 (noting that there are significant unmeasured costs, such as costs of converting to ten-digit dialing and costs of replacing or updating legacy customer equipment).

¹⁷⁷ Cox Comments at 24.

method of choice for area code relief at the present time.¹⁷⁸ SBC, for example, urges the Commission to adopt a presumption in favor of all-services overlays in the largest 100 MSAs and require all-services overlays where either an exhausting area code has failed to last for the recommended interval in the Industry Numbering Committee's (INC's) NPA relief planning guidelines or the new area code is projected to last less than the recommended interval in the guidelines.¹⁷⁹ At this time, we decline to adopt a presumption in favor of all-services overlays as a method of area code relief. We believe that state commissions are singularly situated to determine the best available relief plan among the alternatives presented based on local geography, local needs, the public interest, and carrier compatibility. State commissions are uniquely positioned to evaluate the best relief plan on a case-by-case basis and, therefore, the determinations of appropriate relief should be left to state commissions.¹⁸⁰ We also believe that specific circumstances and considerations in each relief area should determine which option—geographic split or all-services overlay—would best suit the area.¹⁸¹ Thus, state commissions may continue to make decisions regarding the relative merits of area code splits and overlays so long as they act consistently with the Commission's guidelines.¹⁸² In addition to these two options, state commissions should consider whether a third option, boundary realignments, would better serve their area code relief needs.

69. Several commenters in this proceeding also suggest suspending or eliminating the ten-digit dialing requirement for all-services overlays.¹⁸³ Ameritech, for example, contends that suspending the ten-digit dialing requirement will provide the incentive for states to implement all-services area code overlays.¹⁸⁴ SBC states that developments since the *Local Competition Second Report and Order* have eliminated the need for the ten-digit dialing requirement.¹⁸⁵ The North Carolina Commission states that, although the ten-digit dialing requirement mitigates dialing disparity resulting from the implementation of an overlay that could be conceived as a competitive disadvantage, it does not justify the inconvenience of ten-digit dialing being forced upon citizens who are not yet enjoying any benefits of a competitive marketplace.¹⁸⁶ Other

¹⁷⁸ BellSouth Comments at 18; Richard Eyre Comments at 1.

¹⁷⁹ SBC Comments at 94-95. The INC is a standing committee of the Carrier Liason Committee (CLC), one of the fora sponsored by the Alliance for Telecommunications Industry Solutions (ATIS). The INC addresses issues associated with the planning, administration, allocation, assignment and use of numbering resources and related dialing considerations, and has developed guidelines for the assignment and administration of all types of numbering resources, as well as for the administration of area code relief.

¹⁸⁰ See, e.g., AT&T Comments at 67; California Commission Comments at 43.

¹⁸¹ ALTS Comments at 28.

¹⁸² SBC Comments at 94.

¹⁸³ Ameritech Reply Comments at 15; North Carolina Commission Comments at 18; SBC Comments at 101 (noting that the ten-digit dialing requirement is outmoded and unnecessary today).

¹⁸⁴ Ameritech Reply Comments at 15.

¹⁸⁵ SBC Comments at 102.

¹⁸⁶ North Carolina Commission Comments at 18.

commenters, however, support the retention of the mandate that calls placed both within and outside of the subscriber's NPA use ten digits when an overlay is implemented.¹⁸⁷ The Small Business Alliance, for example, notes that ten-digit dialing is so common in many areas that customers automatically give their area code and number when leaving a message on voice mail or on an answering machine.¹⁸⁸

70. We continue to believe that imposing the ten-digit dialing requirement on the implementation of all-services overlays will ensure that competitors, including small entities, do not suffer competitive disadvantages.¹⁸⁹ We therefore retain the mandatory ten-digit dialing requirement when all-services overlays are implemented.¹⁹⁰ Thus, "no area code overlay may be implemented unless there exists, at the time of implementation, mandatory ten-digit dialing for every telephone call within and between all area codes in the geographic area covered by the overlay area code."¹⁹¹ We require mandatory ten-digit dialing for all calls in areas served by overlays to ensure that competition will not be deterred in overlay area codes as a result of dialing disparity. We believe that local dialing disparity would occur absent mandatory ten-digit dialing, because all existing telephone users would remain in the old area code and dial seven digits to call others in that area code, while new users with the overlay code would have to dial ten digits to reach any customers in the old code.¹⁹² Requiring ten-digit dialing for all calls avoids the potentially anti-competitive effect of all-services area code overlays.

1. Reverse Overlays

71. *Background.* A "reverse overlay" involves the creation of a single area served by two or more existing NPAs when a previously established NPA boundary is eliminated.¹⁹³ The Public Utility Commission of Texas (Texas Commission) has deployed reverse overlays in the Dallas area (214/972) and the Houston area (713/281).¹⁹⁴ In the *Notice*, we sought comment on the use of reverse overlays as a method for area code relief.¹⁹⁵

¹⁸⁷ AT&T Comments at 67; ALTS Comments at 30-31 (stating that the ten-digit dialing requirement is essential to ensuring that an overlay does not disadvantage competitive LECs and their customers).

¹⁸⁸ Small Business Alliance Comments at 3.

¹⁸⁹ *Local Competition Second Report and Order*, 11 FCC Rcd at 19519, para. 288.

¹⁹⁰ 47 C.F.R. § 52.19(c)(3)(ii).

¹⁹¹ *Id.*

¹⁹² *Local Competition Second Report and Order*, 11 FCC Rcd at 19518, para. 287.

¹⁹³ *Notice*, 14 FCC Rcd at 10429, para. 253.

¹⁹⁴ See *Public Utility Commission of Texas Petition for Expedited Waiver of 47 C.F.R. § 52.19(c)(3)(ii) for Area Code Relief*, Order, 13 FCC Rcd 21798 (1998) (granting the Texas Commission a waiver of the ten-digit dialing requirement in section 52.19(c)(3)(ii) for a period not to exceed 6 months from the date of implementation of the reverse overlays).

¹⁹⁵ *Notice*, 14 FCC Rcd at 10429, para. 253.

72. *Discussion.* We find that reverse overlays can be useful tools to allow the use of otherwise “stranded” numbering resources, and encourage the industry and state commissions to consider their use. According to SBC, reverse overlays have all of the advantages of all-service overlays, and they also eliminate inefficiencies created by a previous, erased geographic split line.¹⁹⁶ GTE states that the reverse overlays deployed in Dallas and Houston were handled easily with few customer problems.¹⁹⁷ Such an overlay plan can be especially useful in areas where the NPAs from the previous split are exhausting unevenly and relief is necessary in one but not the other.¹⁹⁸ Reverse overlays can also be very useful where a slow-growing NPA is adjacent to a fast-growing NPA that is nearing exhaust. Rather than using a new NPA to relieve the area code that is nearing exhaust, the state could turn the adjacent, slow-growing NPA into an overlay, thereby freeing up NPA-NXXs in the slower-growing code that might otherwise have continue to lie fallow for years. This approach, if widely deployed, could significantly extend the life of the supply of NPAs in the NANP. We therefore strongly encourage states and the industry to consider it.

2. Expanded Overlays

73. *Background.* The NANC has identified an “expanded overlay” proposal that would implement an overlay covering a region that is larger than an existing NPA.¹⁹⁹ The “expanded overlay” proposal would not replace or change assignment boundaries for existing NPAs, but rather permits the allocation of numbering resources over a potentially larger geographic region.²⁰⁰ In the *Notice*, we sought comment on the feasibility of expanded area code overlays as a means of allocating new numbering resources to areas facing exhaust of existing NPAs.²⁰¹ In particular, we sought comment on the practicality of this approach in light of its potential effect on rating and billing of calls between the overlay NPA and underlying NPAs.²⁰² We also sought comment on whether there are any practical limits to the size of overlay NPAs.²⁰³

74. *Discussion.* We encourage state commissions to consider the use of expanded overlays as a means of allocating new numbering resources to areas facing exhaust. There is no requirement that overlay area codes be implemented to use the same geographic boundaries as the underlying area codes. Potentially, use of such expanded overlay area codes could have

¹⁹⁶ SBC Comments at 98.

¹⁹⁷ GTE Comments at 72.

¹⁹⁸ NANC Report at § 12.2; *see also* SBC Comments at 98 (noting that metropolitan areas where area code splits have been ordered are prime candidates for reverse overlays).

¹⁹⁹ NANC Report at § 12.3. We also note that the Georgia Commission implemented an expanded NPA overlay for the 770 and 404 NPAs in Atlanta. *See* North American Numbering Plan Planning Letter, PL-NANP-102, Nov. 21, 1997. This document is available at <<http://www.nanpa.com>>.

²⁰⁰ NANC Report at § 12.3.1.

²⁰¹ *Notice*, 14 FCC Rcd at 10430, para. 255.

²⁰² *Id.*

²⁰³ *Id.*

significant numbering resource optimization benefits, because it would allow for use of a single area code to provide relief to multiple existing codes. Furthermore, as Cox asserts, an expanded NPA overlay could provide ways to improve efficiency of NXX code usage within densely populated areas.²⁰⁴

75. Allocating new numbering resources over a larger geographic region than existing NPAs would give states enhanced flexibility to accommodate demand for numbers in high-growth areas that may not correspond to existing area code boundaries. Thus, the relative benefits of an overlay are maximized when the overlay covers the greatest area possible.²⁰⁵ We note that the creation of expanded area codes may also raise complex rating and billing issues, however, because the overlay NPA would have a larger coverage area than the underlying NPAs it overlaps.²⁰⁶ We therefore encourage the state commissions and the telecommunications industry to work together to solve these issues if an expanded overlay is implemented in a certain area.

E. Pennsylvania Numbering Order Petitions for Reconsideration and Clarification

76. We also address petitions for clarification or reconsideration that were filed in response to the *Pennsylvania Numbering Order*.²⁰⁷ In the *Pennsylvania Numbering Order*, the Commission delegated additional authority to state commissions to order number rationing in jeopardy situations and encouraged state commissions to seek further limited delegations of authority to implement other innovative number conservation methods. The Commission, however, clarified that state commissions do not have the authority to order the return of NXX codes or thousand number blocks to the code administrator.²⁰⁸

77. Several parties filed petitions for clarification or reconsideration of the *Pennsylvania Numbering Order* as it relates to states' authority to order the return of central office codes or thousand number blocks.²⁰⁹ In the *First Report and Order*, we recognized that state commissions may be able to resolve certain issues more quickly and decisively than an industry consensus process. In this regard, we granted authority to state commissions to direct

²⁰⁴ Cox Comments at 29.

²⁰⁵ See WorldCom Comments at 64. AT&T, however, states that it is unconvinced that expanded overlays would have significant numbering resource optimization benefits. AT&T Comments at 67.

²⁰⁶ See AT&T Comments at 67 (stating that expanded overlays make it more difficult for customers to determine whether they will be billed for calls as toll or local).

²⁰⁷ *Pennsylvania Numbering Order*, 13 FCC Rcd 19011, para. 1.

²⁰⁸ *Id.* at 19026, para. 24.

²⁰⁹ Connecticut Commission Pennsylvania Numbering Order Petition for Reconsideration at 7; Maine Commission Pennsylvania Numbering Order Petition for Reconsideration at 1; New Hampshire Commission Pennsylvania Numbering Order Petition for Reconsideration at 2; Pennsylvania Commission Pennsylvania Numbering Order Petition for Reconsideration at 7; see also *Pennsylvania Numbering Order*, 13 FCC at 19026.

the NANPA to reclaim unactivated or unused NXX codes.²¹⁰ Similarly, we gave the same authority to the states to direct the Pooling Administrator in state pooling trials, as well as the national thousands-block number Pooling Administrator once national thousands-block number pooling has been established, to reclaim unactivated or unused thousands-blocks.²¹¹ In light of the delegation of authority to the states, the requests that the Commission clarify the *Pennsylvania Numbering Order* or reconsider the state commissions' authority to reclaim unused and reserved NXX codes and thousand-number blocks are moot. Accordingly, we dismiss as moot this aspect of the petitions for clarification or reconsideration that were filed in response to the *Pennsylvania Numbering Order*.

78. Several parties also request clarification or reconsideration of the *Pennsylvania Numbering Order* restricting state commissions from imposing number conservation methods (e.g., NXX code rationing) until after a final decision is made regarding the implementation of area code relief.²¹² As discussed above,²¹³ we reaffirm our commitment to the guidelines enumerated in the *Pennsylvania Numbering Order* that the rationing of NXX codes should only occur when it is clear that an NPA will run out of NXX codes before timely implementation of a relief plan.²¹⁴ We emphasize that state commissions may not use rationing as a substitute for area code relief.²¹⁵ In prior orders, the Commission and Bureau have also declined to grant state commissions authority to adopt NXX code rationing procedures prior to adoption of an area code relief plan, except in the most extreme circumstances.²¹⁶ Because of the difficulty in getting needed numbering resources experienced by some carriers in areas subject to rationing, we are not persuaded that Commission precedent should be changed at this time. Thus, we decline to alter this aspect of the *Pennsylvania Numbering Order*.

79. We believe that the authority the Commission and the Bureau delegated to several state commissions to implement other relief measures will provide them with the tools they need to address the inefficiencies of numbering use in their states. For example, the Commission and the Bureau have granted several state commissions the authority to maintain pre-NPA relief

²¹⁰ *First Report and Order*, 15 FCC Rcd at 7680, para. 237.

²¹¹ *Id.* at 7681, para. 238.

²¹² California Commission Pennsylvania Numbering Order Petition at 1-2; Connecticut Commission Pennsylvania Numbering Order Petition at 3-5; Maine Commission Pennsylvania Numbering Order Petition at 1; Massachusetts Commission Pennsylvania Numbering Order Petition at 7-8; New Hampshire Commission Pennsylvania Numbering Order Petition at 1-2; Pennsylvania Commission Pennsylvania Numbering Order Petition at 2.

²¹³ *See infra* para. 61.

²¹⁴ *Pennsylvania Numbering Order*, 13 FCC Rcd at 19025, para. 24.

²¹⁵ *Id.* at 19027, para. 26.

²¹⁶ *See, e.g., Florida Delegation Order*, 14 FCC Rcd at 17522, para. 39; *Massachusetts Delegation Order*, 14 FCC Rcd at 17464, para. 41; *New York Delegation Order*, 14 FCC Rcd at 17481-82, paras. 32, 34; *but see California Delegation Order*, 14 FCC Rcd at 17503-04, para. 38, 40 (noting that unique circumstances exist in California which require public participation in the area code relief planning process at least 30 months prior to the submission of a recommended relief plan to the California Commission).

NXX code rationing measures for six months following implementation of area code relief.²¹⁷ The Commission and the Bureau reasoned that a continuation of rationing after area code relief neither contradicts the *Pennsylvania Numbering Order*,²¹⁸ as the requisite area code relief has been implemented, nor has the potential—in contrast to rationing prior to area code relief—to forestall area code relief indefinitely. In addition, state commissions were also granted the authority to hear and address claims for an extraordinary need for numbering resources in an NPA subject to a rationing plan.²¹⁹ This grant of authority empowers the state commissions to ensure that carriers in dire need of numbering resources can obtain the numbering resources they need to continue to provide service to their prospective customers, if the rationing plan will not ensure that the carriers will have adequate and timely access to numbering resources.

80. The California Commission also requests reconsideration of the *Pennsylvania Numbering Order* to the extent that it restricts state commissions from initiating mandatory number pooling.²²⁰ With the release of the *First Report and Order*, we adopted a nationwide system for allocating numbers in blocks of one thousand, rather than ten thousand, wherever possible, and announced our intention to establish a plan for national rollout of thousands-block number pooling. The Commission and the Bureau have also granted several state commissions the authority to initiate thousands-block number pooling trials.²²¹ In fact, the California Commission was delegated authority to initiate thousands-block number pooling trials in California on September 15, 1999. Accordingly, we dismiss as moot this aspect of the California Commission's petition for reconsideration.

²¹⁷ See, e.g., *Florida Delegation Order*, 14 FCC Rcd at 17517-18, paras. 26, 28; *Massachusetts Delegation Order*, 14 FCC Rcd at 17458-59, para. 27; *Wisconsin Delegation Order*, 15 FCC Rcd at 1310-11, paras. 30, 31. Where area code relief takes the form of an area code split, the Commission granted several states the authority to direct that whatever rationing plan was in place prior to area code relief continue to be applied in both the newly implemented area code and the relieved area code for a period of up to six months following the date of implementation of area code relief. Correspondingly, if the area code relief is in the form of an all-services overlay, the states may direct that the pre-existing rationing plan be applied to both the overlay code and the relieved code for a period of six months following the date of implementation of area code relief. Whether the rationing plan in place prior to relief was an industry consensus plan, or whether it was a state commission-ordered plan, only those terms in place prior to area code relief may remain in place following area code relief. The state commissions may order a continuation of rationing for up to six months, but neither the state commissions, nor the telecommunications industry participants in a consensus plan, may alter the terms of the rationing plan. We found this limitation appropriate to prevent a potentially contentious re-opening of the terms of a previously settled code rationing plan, resulting in uncertainty and a drain on resources.

²¹⁸ The *Pennsylvania Numbering Order* stated that state commission implementation of number conservation measures could not be used "as substitutes for area code relief or to avoid making difficult and potentially unpopular decisions on area code relief." *Pennsylvania Numbering Order*, 13 FCC Rcd at 19027, para. 26.

²¹⁹ See, e.g., *California Delegation Order*, 14 FCC Rcd at 17500-501, para. 32; *Massachusetts Delegation Order*, 14 FCC Rcd at 17462-463, para. 37.

²²⁰ California Commission *Pennsylvania Numbering Order* Petition at 2.

²²¹ See, e.g., *Numbering Resource Optimization*, Order, CC Docket No. 96-98, 99-200, DA 00-1616 (rel. July 20, 2000).

VI. OTHER NUMBERING RESOURCE OPTIMIZATION MEASURES

A. Audits

81. *Background.* In the *Notice*, we opined that auditing is the only comprehensive method for verifying the validity and accuracy of utilization data submitted by users of numbering resources.²²² We stated that audits could also be used to verify compliance with non-quantitative rules or guidelines.²²³ We further stated that audit requirements may independently serve as a deterrent to carrier noncompliance or self-serving behavior, such as hoarding of numbers.²²⁴ Consequently, we proposed that any data collection and need verification measures proposed should be supplemented with a comprehensive audit program that verifies carrier compliance with federal numbering rules and industry numbering guidelines.²²⁵

82. *Discussion.* We adopt our proposal to supplement the need verification measures and data collection requirements, adopted in the *First Report and Order*, with a comprehensive audit program to verify carrier compliance with federal rules and orders and industry guidelines. In addressing need verification measures in the *First Report and Order*, we adopted a more verifiable, needs-based approach to allocating initial and growth numbering resources predicated on proof that carriers need numbering resources when, where, and in the quantity requested. We find that an audit program is an important adjunct to these measures.

83. A comprehensive auditing program can serve many useful purposes. First, it can provide a level of confidence in the accuracy of data reported by carriers. Our ability to monitor numbering resource use and accurately predict NPA and NANP exhaust is dependent on the quality of the data submitted by the carriers. Auditing provides a way of verifying the accuracy of these data. Auditing also helps ensure that carriers are complying with our rules promoting efficient number usage because it serves as a deterrent. The mere possibility of an audit, we believe, will prevent behavior that is contrary to numbering resource optimization goals, such as stockpiling of unneeded resources. Finally, auditing will allow us to identify inefficiencies in the manner in which carriers use numbers, such as excessive use of certain categories of numbers such as administrative, aging, or intermediate numbers.

1. Types of Audits

84. *Background.* In the *Notice*, we identified the three commonly used types of audits: “for cause” audits, regularly scheduled audits, and random audits.²²⁶ “For cause” audits are conducted if there is a reason to believe that the information a carrier provided is inaccurate or misleading, or that a carrier has violated the Commission’s rules or orders or applicable

²²² *Notice*, 14 FCC Rcd at 10358-9, para. 83.

²²³ *Id.*

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ *Id.* at 10359, para. 84.

industry guidelines.²²⁷ Regularly scheduled audits, for our purposes, would be conducted on a fixed schedule for all entities that obtain numbering resources.²²⁸ Random audits are unscheduled audits of users of numbering resources selected at random.²²⁹ We sought comment on whether and, if so, how, all three types of audits should be employed as part of a comprehensive audit program to monitor carrier compliance with number allocation and administration rules and guidelines.²³⁰ We also sought comment on the comparative costs and benefits associated with performing each type of audit.²³¹

85. *Discussion.* After careful consideration, we conclude that our comprehensive audit program will consist of “for cause” and random audits. Given that we have strengthened our rules concerning need verification measures and data collection, we believe that we can better accomplish our goals with the use of these two types of audits. We agree with Omnipoint that regularly scheduled audits would be “exorbitantly expensive” to the industry, which includes thousands of code-holding carriers, or valueless due to the extended period of time between audits.²³²

86. We observe that there is broad agreement among commenters that “for cause” audits should be included in our comprehensive audit program. “For cause” audits may be initiated based on information drawn from a variety of sources. For example, “for cause” audits could be triggered by the Bureau, the NANPA or the Pooling Administrator, or a state commission that has reason to believe that a service provider may have violated the Commission’s rules or orders, or applicable industry guidelines. “For cause” audits could also be triggered by inconsistencies or anomalies, including inaccurate or misleading data, identified by the NANPA or the Pooling Administrator in reported mandatory utilization and forecast data,²³³ or by the Bureau or a state commission conducting its own review of submitted utilization and forecast data.²³⁴

87. To request that a “for cause” audit be conducted for any of the above stated reasons, the NANPA, the Pooling Administrator or a state commission must make a written request to the entity designated by the Commission to conduct audits (the Auditor). Such request shall state the reason for which a “for cause” audit is being requested and shall include

²²⁷ *Id.* at 10359, para. 85.

²²⁸ *Id.* at 10359, para. 86.

²²⁹ *Id.* at 10360, para. 87.

²³⁰ *Id.* at 10359, para. 84.

²³¹ *Id.*

²³² See Omnipoint Reply Comments at 12-13.

²³³ The NANPA is required to renew submitted utilization and forecast data and to identify inconsistencies and anomalies in such.

²³⁴ Cf. CinBell Comments 8 (recommending that anomalies in information reported to NANPA trigger “for cause” audits).

documentation of the alleged anomaly, inconsistency, or violation of the Commission rules or orders or applicable industry guidelines. The Auditor shall determine from the application whether a “for cause” audit is warranted. Also, the Auditor may, as an additional deterrent, and at its own discretion, conduct a “for cause” audit and follow-up audits of service providers that previously were subject to “for cause” audits.²³⁵

88. Because “for cause” audits are conducted only if there are specific allegations of non-compliant or inappropriate conduct on the part of a carrier, we conclude that we should also monitor carrier compliance with our rules and orders and applicable industry guidelines through the use of random audits. We decline to employ only “for cause” audits in our program, as suggested by some commenters,²³⁶ because we believe it would weaken our ability to effectively monitor compliance with all rules, orders, and applicable guidelines. In conjunction with the use of “for cause” audits, we find that random audits will provide our comprehensive audit program with more flexibility to accomplish our auditing goals. Since random audits are not necessarily triggered by allegations of non-compliant or inappropriate conduct, they can serve as a strong deterrent to any carrier who might misuse numbering resources.²³⁷ We agree with the Texas Commission that random audits are particularly important to ensure continuous compliance with applicable rules and regulations.²³⁸ We disagree with Level 3 that random audits will expose a company to the arbitrary application of a costly process.²³⁹ All carriers should be prepared at any time to show their compliance with our requirements; the use of random audits will spare the vast majority of carriers from having to do so while providing a similar deterrent effect.

2. Audit Responsibility

89. *Background.* We identified the NANPA, the Commission, and the state commissions in the *Notice* as possible candidates to conduct numbering resource audits.²⁴⁰ We sought comment on whether we should direct the NANC to select an entity to audit carrier number utilization and forecast data using a competitive bidding process subject to our approval.²⁴¹ We acknowledged that the NANPA may not be the best choice to audit code holders because the NANPA, in its capacity as central office code administrator, would be subject to periodic audits for related issues.²⁴² We also sought comment on who should conduct audits, and on whether audit responsibility should be apportioned among these or other neutral third

²³⁵ See AT&T Comments at 22; North Carolina Commission Comments at 7; Texas Commission Comments at 14; VoiceStream Comments at 17.

²³⁶ See Connect Reply Comments at 6-7; Nextlink Reply Comments at 25; RCN Comments at 7; Time Warner Comments at 21.

²³⁷ See SBC Comments at 56.

²³⁸ See Texas Commission Comments at 14.

²³⁹ See Level 3 Comments at 7.

²⁴⁰ *Notice*, 14 FCC Rcd at 10360, para. 88.

²⁴¹ *Id.*

²⁴² *Id.*

parties.²⁴³

90. *Discussion.* Although numerous commenters, including some state commissions, supported selecting NANPA as the auditor for our program, we decline to do so. We recognize, as do some commenters, that the selection of the NANPA as the auditor could pose a potential conflict of interest since the NANPA is subject to similar audits for numbering compliance.²⁴⁴ Instead, the Commission will ensure, by using auditors in the Audits Branch of the Accounting Safeguards Division in the Common Carrier Bureau or other designated agents, that “for cause” and random audits are properly and promptly conducted. We disagree with AirTouch that federal regulatory agencies do not have the necessary resources to conduct audits of the breadth that is needed.²⁴⁵ Since auditors are already employed by the Commission, we expect that only minimal costs will be incurred in implementing the auditing program. In addition, the Commission may designate agents under section 251(e)(1) to conduct audits or otherwise assist in the comprehensive numbering audit program.

91. Many of the state commissions responding to the *Notice* proposed that we delegate authority to the states to conduct their own audits in addition to the audits prescribed herein.²⁴⁶ We decline to delegate authority to the states to conduct the audits prescribed herein at the present time. We are concerned that some states may not, as indicated by the California Commission, have the resources to properly conduct the audits that we require.²⁴⁷ In addition, we are concerned that states may employ different standards in performing the audits. Many carriers operate in multiple states, and one of our goals in adopting a national auditing framework is to prevent carriers from having to comply with differing demands in different states. In declining to delegate authority to states to perform audits under the national program, we do not intend to preempt any state authority to perform audits under state law.

92. Nevertheless, we do believe that a certain level of state participation in our auditing program is desirable. Thus, we have granted states the ability to request “for cause” audits, as noted above.²⁴⁸ In the attached *Further Notice*, we seek comment on whether and under what circumstances state commissions should be given the independent authority to conduct “for cause” and “random” audits either in lieu of, or in addition to, the national audit program established herein.²⁴⁹ In addition, we will permit states that have the resources to do so to participate on Commission audit teams if they wish to do so.²⁵⁰ We note that the state

²⁴³ *Id.*

²⁴⁴ SBC Comments at 57-58.

²⁴⁵ AirTouch Comments at 22.

²⁴⁶ See, e.g., Connecticut Commission Comments at 13; North Carolina Commission Comments at 7.

²⁴⁷ California Commission Comments at 16.

²⁴⁸ See *supra* section VI.A.1.

²⁴⁹ See *infra* section VII.G.

²⁵⁰ See 47 C.F.R. § 0.291(b). To improve operating and administrative efficiency, the Commission delegated authority to the Common Carrier Bureau to coordinate joint audits with state commissions when: (i) there is a shared (continued....)

commissions, through resolutions adopted by the National Association of Regulatory Utility Commissioners (NARUC), have encouraged such joint audit efforts.²⁵¹

93. Although not selected to perform the audits in our comprehensive program, the NANPA, in its capacity as code administrator, will continue to have audit-type responsibilities. Specifically, it must examine the data it receives from service providers for anomalies and inconsistencies. This audit-type responsibility is distinct from the audit program that we are establishing. Thus, our actions in establishing an audit program do not relieve NANPA of its responsibility to examine and verify data submitted by service providers. To the contrary, we require NANPA to continue to discharge these responsibilities, which will alert it to any information that may lead to the initiation of a "for cause" audit by the Auditor.

3. Audited Information and Procedures

94. *Background.* We sought comment on the process by which specific auditing procedures should be established, as well as on the development of statistical and analytical approaches that would be required to evaluate the quality and validity of reported data.²⁵² We asked parties to comment on how we may structure an audit process that is flexible enough to focus on new problems or issues as they arise.²⁵³ We noted that the NANC and the INC have been working to develop a comprehensive audit process, and we directed the NANC to provide a progress report regarding this work effort to the Common Carrier Bureau on or before the deadline for initial comments in this proceeding.²⁵⁴ We also sought comment on the best method for soliciting the input of state commissions, recognizing that state commissions should have a major role in the development of this framework and procedures.²⁵⁵

95. *Discussion.* On July 18, 2000, the NANC submitted a progress report to the Common Carrier Bureau regarding its work with the INC in developing a comprehensive audit process.²⁵⁶ Although we do not adopt the report in its entirety, we do adopt several of its proposals. In this regard, we delegate authority to the Chief of the Common Carrier Bureau to

(Continued from previous page)

policy interest, and (ii) the states have procedures for protecting confidential information equivalent to those of the Commission. To the extent that the Commission imposes a higher standard of confidentiality than state law, the state is required to adhere to the higher Federal standard. *Amendment of Parts 0, 1, and 64 of the Commission's Rules with Respect to Delegation of Authority to the Chief, Common Carrier Bureau*, Report and Order, 5 FCC Rcd 4601 (1990); *Delegation of Authority to the Chief, Common Carrier Bureau*, Memorandum Opinion and Order, 50 Fed. Reg. 18487-03 (1985), *on reconsideration*, 104 FCC2d. 733 (1986).

²⁵¹ See, e.g., Resolution Urging Pro-Competitive, Pro-Consumer Federal-State Joint Audits, Sponsored by the NARUC Committees on Finance & Technology and Communications at the NARUC Annual Convention and Regulatory Symposium held in July 2000 in Los Angeles, California (July 26, 2000).

²⁵² Notice, 14 FCC Rcd at 10361, para. 89.

²⁵³ *Id.*

²⁵⁴ *Id.* at 10361, para. 90.

²⁵⁵ *Id.*

²⁵⁶ See Number Administration Auditor Technical Requirements, dated July 18, 2000.

develop a comprehensive audit plan including detailed analytical audit procedures for both "for cause" audits and random audits. The plan should identify compliance issues based on risk assessment and should include a schedule of audits that focuses audit resources on the critical issues pertaining to numbering resource optimization.

96. We also adopt the NANC's proposal that the Auditor provide standard audit reports. Specifically, we require draft audit reports, no later than 30 days after the completion of an audit, that contain a summary of the auditor's results. Based on the final audit report, to the extent the Common Carrier Bureau finds evidence of potential violations, it shall refer the matter to the Enforcement Bureau for possible enforcement action, which may include, for example, monetary forfeitures, revocation of interstate operating authority and cease and desist orders. In the *Further Notice* attached to this *Second Report and Order*, we seek comment on whether and how numbering resources should be denied as an additional enforcement mechanism.

97. *Auditing Costs.* Based on our assessment in the *Notice* that auditing and other administrative solutions for allocating and administering numbering resources appear to involve changes in the manner in which these resources are overseen and managed, we tentatively concluded that the costs for our proposed solutions should be allocated and recovered through the existing NBANC fund.²⁵⁷ In addition, we tentatively concluded that section 251(e)(2)²⁵⁸ requires that the costs of the administrative solutions be borne by all telecommunications carriers on a competitively neutral basis and that including the costs in the NBANC fund would result in the allocation and recovery of costs from all telecommunications carriers on such a basis.²⁵⁹

98. We conclude that the costs associated with our comprehensive auditing program are numbering administration costs and, as such, they should be borne by all telecommunications carriers on a competitively neutral basis. Although we intend that the audits will be conducted by auditors in the Bureau's Audits Branch,²⁶⁰ to the extent that designated agents other than Commission staff are used to perform the work related to our comprehensive audit program, we conclude that the costs associated with such work performed by designated agents should be allocated and paid for through the NBANC fund.²⁶¹

99. Finally, we decline to provide a specific cost recovery mechanism for carrier specific auditing costs, including those associated with providing requested documentation or information needed by the Auditor to conduct the audit. We believe that these costs will be minimal since the carrier's primary responsibility when being audited is to provide the Auditor

²⁵⁷ *Notice*, 14 FCC Rcd at 10367, para. 103.

²⁵⁸ 47 U.S.C. § 251(e)(2).

²⁵⁹ *Notice*, 14 FCC Rcd at 10368, para. 104.

²⁶⁰ Although the costs incurred by the Bureau's Audits Branch with respect to the auditing program will not be allocated and paid for through the NBANC fund, we note that such costs generally will be allocated and recovered through annual regulatory fees and thus still will be borne by carriers on a competitively neutral basis.

²⁶¹ According to the NBANC Status Report and Fund Projection dated October 10, 2000, the funds set aside for auditing costs for the current fund year totaled \$350,000.

with requested information. Moreover, we believe that these costs will not significantly affect a carrier's ability to be competitive in the marketplace.

B. Mandatory Nationwide Ten-Digit Dialing

100. *Background.* Currently, the standard dialing pattern is seven-digit dialing within an NPA, and ten-digit dialing (or one plus ten digit) between NPAs. Ten-digit dialing is required in both the relieved and the new NPA when all-services overlays are implemented as area code relief. In the *Notice*, we sought comment on whether we should adopt nationwide ten-digit dialing, (*i.e.*, the dialing of ten digits for all calls, regardless of whether they are inter-NPA, intra-NPA, or toll) or whether we should encourage states to implement ten-digit dialing.²⁶² We recognized that mandatory ten-digit dialing increases the supply of numbers available for use, through the reclamation of protected codes,²⁶³ and potentially through permitting the use of either 0 or 1 as the first digit of an NXX code (the fourth, or "D digit, of a ten-digit telephone number).²⁶⁴ We also sought comment on any technical problems and costs associated with ten-digit dialing.²⁶⁵

101. *Discussion.* We decline to adopt nationwide mandatory ten-digit dialing at the present time as a numbering resource optimization measure. As discussed above, we also continue to require that, where all-services overlays are used, ten-digit dialing is required not only between the original NPA and the overlay NPA, but also within each NPA, to prevent anti-competitive impacts on new entrants that may have few or no numbers in the original NPA.²⁶⁶

102. Several commenting parties support mandatory nationwide ten-digit dialing.²⁶⁷ Commenters support the conversion to ten-digit dialing as a numbering resource optimization measure, particularly in densely populated areas with NPAs that are projected to exhaust shortly.²⁶⁸ Airtouch, for example, contends that mandatory ten-digit dialing will eliminate the need for protected NXX codes, thereby significantly increasing the number of NXX codes that

²⁶² *Notice*, 14 FCC Rcd at 10378, para. 126.

²⁶³ In fact, to preserve seven-digit dialing for inter-NPA calls within a community of interest, many states have authorized the use of "protected codes." Where a community of interest contains portions of two or more NPAs, a particular NXX code that has been assigned for use within one of the NPAs is "protected," or made unassignable in the adjacent NPA. This permits every switch in the local calling area to route calls based on the NXX code, rather than the NPA-NXX, even across NPA boundaries. In addition, other protected codes are reserved for special services, such as N11 codes. Thus, protected codes are not available for number assignments to end users. NANC Report at §§ 10.5.2 and 10.5.3.1.

²⁶⁴ *Notice*, 14 FCC Rcd at 10376, para. 123.

²⁶⁵ *Id.* at 10378, para. 125.

²⁶⁶ See 47 C.F.R. § 52.19 (c)(3)(ii).

²⁶⁷ GTE Comments at 34; OPASTCO Comments at 6; PrimeCo Comments at 10; USTA Comments at 7; U S West Comments at 16.

²⁶⁸ See, *e.g.*, Small Business Alliance Comments at 9.

can be assigned in an area, and will permit expanded use of the D digit.²⁶⁹ Other commenters, however, explicitly reject the adoption of this measure.²⁷⁰ Several commenting parties state that mandatory ten-digit dialing would allow future area code relief projects, particularly all-services overlays, to be less disruptive to consumers,²⁷¹ and might foster new and different uses for NPA overlays.

103. It appears, however, that at the present time, the numbering resource optimization benefits of ten-digit dialing are limited.²⁷² Protected codes, which enable seven-digit dialing across area code boundaries, may be reclaimed without regard to whether mandatory nationwide ten-digit dialing is implemented. In fact, the NANC recommends that protected codes should be eliminated in all instances.²⁷³ Also, the record in this proceeding reveals that expansion of the D digit to optimize the effectiveness of ten-digit dialing raises significant implementation concerns.²⁷⁴ SBC, for example, states that D digit expansion would require substantial time and effort, as well as modification of all switching systems and networks to allow the “unblocked” “0” or “1” D digit to be recognized as the fourth digit of a ten-digit number.²⁷⁵ Perhaps an advantage that could be realized at this time from implementing mandatory ten-digit dialing is that it might liberate state commissions from having to face dialing pattern questions as they make area code relief decisions, perhaps allowing them to focus more sharply on numbering resource optimization concerns. We have concluded, however, that we should leave area code relief decisionmaking with the states at the present time.²⁷⁶

104. In addition, the record in this proceeding indicates that a nationwide transition to ten-digit dialing would require some technical modifications to switches, operations support systems, and customer premises equipment. The NANC Report states that, although the industry cost of implementing ten-digit dialing will vary according to each geographic area and service provider, some carriers could experience substantial costs associated with modifications to switch translations and OSS, directory publishing, changes to announcement systems, and customer education. Implementation of ten-digit dialing will also require upgrades to the Public Safety Answering Point (PSAP) systems used to respond to 911 calls. More importantly,

²⁶⁹ AirTouch Comments at 9.

²⁷⁰ See, e.g., California Commission Comments at 24 (stating that the determination of whether to impose a dialing pattern which includes both the area code and customer’s seven-digit number is best left to the states); Maine Commission Comments at 19; North Carolina Commission Comments at 11-12.

²⁷¹ See CinBell Telephone Comments at 14; Nextel Comments at 23; PrimeCo Comments at 10; VoiceStream Comments at 25-26.

²⁷² See, e.g., Texas Office of Public Util. Counsel and NASUCA Comments at 47.

²⁷³ See NPA Code Relief Planning and Notification Guidelines, INC 97-0404-016, § 5.0, November 2000, available at <www.atis.org>.

²⁷⁴ AT&T Comments at 37; SBC Comments at 106-7; USTA Comments at 7.

²⁷⁵ SBC Comments at 100.

²⁷⁶ See *supra* sections V.C-D.

mandatory ten-digit dialing does present some disruptive effects, particularly for consumers. Consumers often object to the inconvenience and confusion associated with having to remember and dial three extra digits.²⁷⁷ For the foregoing reasons, we decline to require mandatory nationwide ten-digit dialing at the present time.

C. Expansion of the D Digit

105. *Background.* In the *Notice*, we recognized that expansion of the fourth digit of a ten-digit telephone number, the so-called "D" digit (the "N" of an NXX or central office code),²⁷⁸ would increase the quantity of NXXs available within an NPA by approximately 25% if accompanied by the implementation of ten-digit dialing.²⁷⁹ Accordingly, we sought comment on the costs and benefits of expanding the D digit, and on whether we should mandate the adoption of this measure at the national level to ensure its effectiveness or on a statewide or NPA-wide basis.²⁸⁰ Furthermore, we sought comment on whether states should independently implement the expansion of the D digit as a numbering optimization measure.²⁸¹

106. *Discussion.* We decline to adopt nationwide expansion of the D digit to include 0 or 1, or to grant state commissions the authority to implement the expansion of the D digit as a numbering resource optimization measure at the present time. We agree with commenting parties that D digit expansion raises some implementation concerns.²⁸² The record in this proceeding reveals that implementation of this measure will require some technical modifications to switches, operations support systems, and customer premises equipment.²⁸³ For example, since service providers may be using NXXs that begin with "0" or "1" for intra-network use, they will need to develop an alternate technical solution.²⁸⁴ In addition, several commenting parties contend that D digit expansion must be done simultaneously by all participants in the NANP

²⁷⁷ NANC Report at § 10.8.2.

²⁷⁸ NANC Report at § 10.1; *see also* AirTouch Comments at 9; Bell Atlantic Comments at 19-20. NXX codes that begin with "0" and "1" are restricted by industry agreement and are used for switches to access operators, toll dialing and/or inter-NPA calling. NANC Report at § 10.5.2.2. In order for these restricted NXX codes to be available for assignment, a uniform ten-digit dialing pattern must be implemented. *Id.*

²⁷⁹ NANC Report at § 10.5.2.2. Release of the D digit removes the current restriction on the fourth digit in the numbering sequence allowing the digit to be a 0 or 1. Thus, NXXs in the form 000-199 could be assigned which theoretically provides a 25% increase in the current NANP.

²⁸⁰ *Notice*, 14 FCC Rcd at 10380, para. 129.

²⁸¹ *Id.*

²⁸² *See, e.g.*, USTA Comments at 7.

²⁸³ *See* Ameritech Comments at 37 (stating that D digit expansion involves serious adverse impacts and costly network and operation support system (OSS) modifications); AT&T Comments at 37; BellSouth Comments at 18 (noting that most switches in the public switched telephone network (PSTN) cannot route such numbers and there is no OSS ready for such a fundamental change); Citizens Utility Bd., et al. Comments at 44; SBC Comments at 106-07; *see also* NANC Report at § 10.6.1.3.

²⁸⁴ *See* Nortel Networks October 4, 2000 *ex parte*; Telcordia October 24, 2000 *ex parte*; *see also* NANC Report at § 10.6.1.3.

because otherwise calls can not be completed to exchanges where carriers continue to retain the D digit for internal use.²⁸⁵ The INC also states that this modification is expected to be a multi-year process for carriers to implement, and therefore, expansion of the D digit would need to be implemented as the final phase of the measures associated with ten-digit dialing.²⁸⁶ For the foregoing reasons, we decline at this time to adopt nationwide expansion of the D digit to include 0 or 1, or grant state commissions the authority to implement the expansion of the D digit as a numbering resource optimization measure at the present time.²⁸⁷ We recognize that the current use of 0 or 1 as the D digit is extensive and therefore steps must be taken to identify and eliminate all such uses prior to any release of the D digit. We therefore direct carriers to begin identifying and eliminating specialized uses of 0 or 1 as the D digit in anticipation of the eventual expansion of the D digit.

D. Clarification of Definitions

1. Parent OCN

107. In the *First Report and Order*, we mandated that all carriers that receive numbering resources from the NANPA, or that receive numbering resources from a Pooling Administrator, report forecast and utilization data to the NANPA.²⁸⁸ We also required carriers that receive numbering resources from another carrier to report forecast and utilization data for such numbers in their inventories.²⁸⁹

108. We required the NANPA to develop a reporting form for both utilization and forecast data.²⁹⁰ To ensure that the NANPA has a means for associating each carrier's reported data with carrier identification information, we required that the reporting forms for utilization and forecast information include company name, company headquarters address, OCN, parent company OCN, and the primary type of business in which the numbers are being used.²⁹¹ We stated that carriers should report their utilization and forecast information by separate legal entity, identifying each entity by its OCN.²⁹² We also directed the NANPA to withhold numbering resources from any United States carrier that fails to provide its utilization and forecast information as mandated in the *First Report and Order* until such information has been

²⁸⁵ NANC Report at § 10.7.2.2.

²⁸⁶ NANC Report at §§ 10.2, 10.3, and 10.7.2.1; *see also* AirTouch Comments at 9 (supporting expansion of the D digit through federally required ten-digit dialing at the national level).

²⁸⁷ *See, e.g.*, Cox Comments at 20-21.

²⁸⁸ *First Report and Order*, 15 FCC Rcd at 7594, para. 40.

²⁸⁹ *Id.*

²⁹⁰ *Id.* at 7598, para. 52.

²⁹¹ *Id.*

²⁹² *Id.* at 7594, para. 41.

provided.²⁹³

109. We directed reporting carriers to identify a parent OCN to enable us to determine the relationships among them and to monitor number usage for corporations and groups of companies as well as individual carrier entities.²⁹⁴ We are aware that, because of varying and complex corporate structures, reporting carriers may have more than one entity that could be deemed its "parent." For example, if a reporting carrier is a subsidiary of company A, which is in turn a subsidiary of company B, both companies A and B could be deemed the parent of the reporting carrier. We therefore clarify that the reporting carrier should identify as its parent, and provide the OCN for, the highest related legal entity located within the state for which it is reporting data. Thus, in the example above, the appropriate parent would be company B, provided that company B is located within the relevant state. In the attached *Second Further Notice*, we seek comment on whether additional data regarding corporate relationships should be reported with carriers' mandatory number utilization and forecast reports, and whether or how that information should be used to ensure the widest possible compliance with our number usage monitoring and optimization efforts, without unduly burdening reporting entities.²⁹⁵

2. Classification of Numbers Used for Intermittent or Cyclical Purposes

110. Numbers used for intermittent purposes are numbers designated for use by a particular customer that may be "working" in the Public Switched Telephone Network (PSTN) periodically, but that remain designated for the customer's use even if they are not "working" at other times. These may include numbers contained in blocks assigned to Centrex or Private Branch Exchange (PBX) users, or to large corporations that require an inventory of spare numbers to accommodate internal usage on short notice. These customers typically use all or a portion of a block of numbers at any given time. Numbers used for cyclical purposes are similarly designated numbers that are typically "working" for regular intervals of time. Customers with numbers used for cyclical purposes typically wish to retain the same number even when the numbers are not "working." A customer's summer home telephone number that is in service for six months out of the year, or a college student's telephone number that is in service only for the school year are examples of numbers used for cyclical purposes.

111. To the extent that these numbers are "working" on the mandatory reporting date, they should be reported as *assigned numbers*.²⁹⁶ It is less clear how these numbers must be reported when they are not "working." We note that many commenters assumed that numbers used for intermittent or cyclical purposes must be reported as *reserved numbers* during the period in which they are not "working," and that this assumption has prompted several parties to seek

²⁹³ *Id.* at 7609-10, para. 84. We also noted that, if a carrier failed to provide the necessary reports, the NANPA must notify the carrier in writing allowing ten days for the carrier either to provide the report or show that it already has done so. *Id.*

²⁹⁴ See *infra* section VII.C for discussion of whether carriers should be held accountable when related carriers fail to report numbering utilization and forecast information.

²⁹⁵ See *infra* paras. 149-150.

²⁹⁶ See *First Report and Order*, 15 FCC Rcd at 7585, para. 16.

reconsideration of our decision to limit the reservation period to 45 days. In the *First Report and Order*, we defined *reserved numbers* as “numbers held by service providers at the request of specific end use customers for their future use.”²⁹⁷ We also determined that after the 45-day reservation period, carriers have to treat these previously “reserved” numbers as “available.” Our purpose in establishing *reserved numbers* and limiting the reservation period to 45 days was to allow carriers the ability to set aside numbers for specific customers’ use in the near term. We did not intend, however, to prevent carriers from maintaining the same telephone number or block of numbers for customers that activate service to particular lines on an intermittent or cyclical basis.

112. We affirm that numbers used for intermittent or cyclical purposes that are not “working” on the mandatory reporting date should be reported as *reserved numbers*. We nevertheless agree that customers should not be subject to losing these numbers when they are turned off for short periods of time. On the other hand, we are concerned that some of these numbers that remain unused indefinitely could be used to provide service to other customers. We therefore address concerns that the 45-day reservation period is too short to accommodate the needs of end user customers to retain numbers used for intermittent or cyclical purposes in the next section. Specifically, in the next section, we increase the maximum reservation period to 180 days. We believe that this approach strikes an appropriate balance between carriers’ legitimate need to provide numbers for intermittent or cyclical uses to their customers, and our responsibility to ensure that scarce numbering resources do not lie fallow for unlimited periods of time. We also seek comment in the attached *Second Further Notice* on whether we should allow carriers to extend the reservation period for numbering resources, for a fee, which could further alleviate the concerns raised by carriers regarding numbers used for intermittent or cyclical purposes.

E. Reconsideration of Reserved Number Period

113. In the *First Report and Order*, we concluded that *reserved numbers*, defined as numbers held by service providers at the request of specific end use customers for their future use, may be held in reserve status for a maximum of 45 days.²⁹⁸ In petitions for reconsideration²⁹⁹ of the *First Report and Order*, as well as numerous *ex partes*,³⁰⁰ several parties have asserted that the 45-day reservation period is a major departure from current business practices and should be increased to enable them to meet specific customer needs.

114. We conclude that the maximum period for reserving numbers should be increased

²⁹⁷ *Id.* at 7587-88, paras. 22-23.

²⁹⁸ *Id.*

²⁹⁹ See, e.g., AT&T Petition for Reconsideration; SBC Petition for Reconsideration and Clarification; Qwest Petition for Reconsideration.

³⁰⁰ See, e.g., Letter from Don Melton, Director, State of Arkansas Department of Information Services, to FCC, dated July 21, 2000; Letter from Kathleen B. Levitz, BellSouth, to Magalie Roman Salas, FCC, dated August 25, 2000; Letter from Glen Whitmer, Assistant Director, Computing and Communicating Services Office, University of Illinois, Urbana-Champaign, to FCC, dated August 14, 2000.

to 180 days. In deciding how much additional time to allow, we considered suggestions that the reservation period be increased to as much as 12 months.³⁰¹ We are persuaded by commenters and petitioners that 45 days does not adequately address the needs of many customers who need to know their telephone numbers for a period of time before telephone service is activated,³⁰² but remain cautious about extending the period too much because of the potential for accelerating the exhaust of some NPAs.³⁰³ Given the need for customers, especially business customers, to plan for implementation and/or expansion of telephone service, print stationery and business cards prior to commencing business, and have their telephone numbers printed in telephone directories, we find it reasonable to extend the reservation period to 180 days. This provision shall be effective upon release of this *Second Report and Order*.

115. We also note that we are considering a proposal from the NANC on the issue of charging fees to extend the number reservation period.³⁰⁴ In the attached *Second Further Notice*, we seek comment on the NANC's proposal to allow unlimited reservations on a month-to-month basis in exchange for a fee.³⁰⁵ If we choose to mandate a reservation extension fee in the future, we will reconsider whether the 180-day period remains appropriate.

F. Clarification of State Commissions' Access to Data

1. State Commissions' Access to Mandatory Reporting Data

116. In the *First Report and Order*, we granted all state commissions access to the semi-annually reported mandatory forecast and utilization data, subject to appropriate confidentiality protections.³⁰⁶ We recognized that, with access to the data, states would be better able to meet their obligations regarding the implementation of area code relief and to act on their delegations of additional numbering authority. We declined, however, to delegate authority to the state commissions to impose additional regularly scheduled reporting requirements on carriers because of our belief that such authority would undermine the purpose of establishing regularly scheduled, uniform federal reporting requirements.³⁰⁷

117. We granted state commissions access to mandatorily reported forecast and utilization data to eliminate the need for them to require carriers to report separately and

³⁰¹ See AT&T Petition for Reconsideration at 8; BellSouth Petition for Reconsideration and Clarification at 8. See also ALTS Petition for Reconsideration and Classification; Sprint Petition for Reconsideration; USTA Petition for Clarification and Reconsideration.

³⁰² See, e.g., Bell South Petition for Reconsideration and Clarification at 5-11.

³⁰³ Allowing numbers to remain in the reserved category indefinitely decreases the amount of available numbering resources, which in turn accelerates the need for area code relief.

³⁰⁴ See Letter from John Hoffman, Chairman, North American Numbering Council, to Dorothy Attwood, Chief, Common Carrier Bureau, dated September 20, 2000.

³⁰⁵ See *infra* para. 152.

³⁰⁶ *First Report and Order*, 15 FCC Rcd at 7606, para. 75.

³⁰⁷ *Id.* at 7606, para. 76.

duplicatively, utilization and forecast data that they are already reporting to the NANPA on a regular basis. In doing so, we considered the need for states to have this information as well as the considerable burden such requests could place on carriers. We also considered the burden on the NANPA in responding to excessive individual state requests for information. We recognize, however, that some state commissions may desire to have access to carrier-specific data on file with the NANPA more frequently or in different formats. For example, states might wish to receive data at frequent intervals, per individual or class of carrier, per geographic area, or they could request all data collected on all reporting carriers within their state.

118. We clarify that our grant of access to mandatorily reported forecast and utilization data includes all such data, as submitted semi-annually by reporting carriers. The NANPA shall provide mandatorily reported forecast and utilization data to any requesting state twice per year, consistent with its collection of such data twice per year.³⁰⁸ Commencing with the second collection of mandatorily reported data, currently scheduled for February 1, 2001, a state may request a single report containing disaggregated data reported by carriers operating in its state beginning 30 days after each deadline for collection of the data, up to the next deadline for reporting. Because state commissions have emphasized the need to receive the data in a format that would enable them readily to perform their own data analyses, we require that the NANPA provide the data via secured electronic transfer, which may include e-mail, or on a computer disk. NANPA shall, in the alternative upon request from a state commission, provide the data in paper copy form without any cost to the state.

119. In the event state commissions wish to receive the data in different formats involving processing or culling of the data, such as customized reports that provide data by carrier or class of carrier, geographic area, or other categories, the NANPA may create and provide such customized reports to requesting states as an enterprise service.³⁰⁹ We emphasize, however, that the NANPA may only charge a fee for enterprise services that is reasonable; that is, based on the cost of processing and compiling the data from its existing database, preparing the customized report, and providing it to the state commission. Once the NANPA's proposal for providing customized reports as an enterprise service is approved,³¹⁰ state commissions are free to negotiate with the NANPA a reasonable price for the customized reports. We also emphasize that states are free to take the data that the NANPA must provide to them and process the data themselves, or have it processed by another entity that is able to do the work more cost-effectively than the NANPA while maintaining the confidentiality of the data.³¹¹ The

³⁰⁸ That is, states are entitled to one report per data collection cycle. We believe that states should have direct access to mandatory data and we address this issue in the attached *Second Further Notice*. See *infra* section VII.D.

³⁰⁹ The February 20, 1997 NANPA Requirements Document at § 7.0 states that enterprise services are "services not described elsewhere in this Requirements Document that may be provided by the new NANPA for a specific fee. Enterprise services and their associated fees are subject to prior approval by the NANC." See *Administration of the North American Numbering Plan, Third Report and Order*, 12 FCC Rcd 23040 (1997).

³¹⁰ See 47 C.F.R. § 52.12(f) (stating that the NANPA shall identify all direct costs associated with enterprise services and submit them to the NANC for review, and to the Commission for appropriate review and action). See also *Administration of the North American Numbering Plan, Third Report and Order*, 12 FCC Rcd 23040 (1997).

³¹¹ Any such entity would be subject to the same confidentiality requirements that the states are subject to when given access to carrier-specific, disaggregated data.

confidentiality protections specified in the *First Report and Order* apply to any customized reports provided by the NANPA or any other entity to the states, to the extent that such reports contain carrier-specific, disaggregated data.

2. State Commissions' Access to Numbering Resource Application Information

120. In the *First Report and Order*, we granted to state commissions access to carriers' applications for initial and growth numbering resources.³¹² We also required that the state commissions treat this information as confidential.³¹³ We did not specify in the *First Report and Order* whether the NANPA, the Pooling Administrator in pooled areas, or carriers themselves must provide such access, or the scope of information that should be made available.

121. We clarify that state commissions seeking access to carriers' numbering resource applications should request copies of such application materials directly from the carriers operating within their states. Not burdening the NANPA and the Pooling Administrator with the obligation to provide states with numbering resource applications will foster fairness in nationwide numbering administration by limiting the extent to which state-specific requests can increase the cost of national numbering administration. We also find that the burden to carriers of providing to the state commission a copy of what the carrier has provided to the administrator, if requested, is minimal.

122. We also clarify that all carriers that receive numbering resources must comply with state requests for copies of numbering resource application materials. Access to these materials is specifically provided for in the *First Report and Order* and herein. Thus, carriers that a state demonstrates to the NANPA or Pooling Administrator have failed to comply with a state request for numbering resource application materials shall be denied numbering resources. In furtherance of our goal of a uniform nationwide carrier reporting scheme, state commissions may not require carriers to submit additional or different application materials from those submitted to the NANPA or the Pooling Administrator when requesting numbering resources, so that carriers may simply submit duplicate copies of such materials to the states, upon request.³¹⁴ State commissions may, however, determine whether this information must be provided whenever an application for numbering resources is made, or whether it may be provided less frequently or only in particular circumstances. To ensure that state commissions are aware of when an application for numbering resources has been submitted, state commissions may request notification from the NANPA.

³¹² *First Report and Order*, 15 FCC Rcd at 7609, para. 82.

³¹³ *Id.*

³¹⁴ We do not preclude the NANPA or the Pooling Administrator from providing application materials as an enterprise service to states that prefer to receive such materials from a single source, as long as the costs associated with providing these materials are borne by the requesting states. As with other enterprise service offerings, any associated fees shall be reasonable and supported by detailed cost analysis from which the reasonableness of the fees may be determined. Similarly, we do not preclude carriers from providing more or different information to the states if the carrier agrees to do so or if the state has a separate basis for the request (e.g., for auditing purposes).

123. Finally, we clarify that our grant to state commissions of access to numbering resource application materials is not intended to delay the processing of carriers' applications for numbering resources. Notwithstanding the state commissions' role in determining the validity of data submitted pursuant to our mandatory reporting requirements,³¹⁵ our intent is not to give state commissions a veto over approval of applications, nor is it to introduce an additional layer of review for applications. The NANPA and the Pooling Administrator are responsible for determining whether application materials are sufficient in the first instance.³¹⁶ State commissions, nevertheless, may continue to review applications for initial numbering resources when a carrier disputes a decision to withhold such numbering resources and seeks resolution from the state commission.³¹⁷ In the attached *Second Further Notice*, we find some merit and seek comment whether states should have password-protected access to mandatorily reported data received by the NANPA. As we have in the past, we will continue to consider individual requests for authority from states' for the collection of information from carriers that the requesting state believes is necessary and that is not captured in the national data collection.

VII. FURTHER NOTICE OF PROPOSED RULEMAKING

A. Service-Specific and Technology-Specific Overlays

124. *Background.* The Commission has prohibited service-specific and technology-specific overlays, initially in the *Ameritech Order*,³¹⁸ and then more broadly in the *Local Competition Second Report and Order*. In the *Ameritech Order*, we rejected a wireless-only overlay plan proposed by Ameritech for the 708 area code on the grounds that it would be unreasonably discriminatory and would unduly inhibit competition. We expressed concern about several facets of Ameritech's area code relief plan: the proposal to continue assigning 708 numbers to wireline carriers but to exclude paging and cellular carriers from such assignments; the proposal to require paging and cellular carriers to take back 708 numbers previously assigned to their subscribers, while wireline carriers would not be required to do so; and the proposal to assign all numbers to paging and cellular carriers exclusively from the existing 312 and new 630 area codes, while wireline carriers (and perhaps others) would continue to receive 708 numbers.³¹⁹ We found that Ameritech's plan would place paging and cellular companies at a distinct competitive disadvantage because their customers would suffer the cost and inconvenience of having to surrender existing numbers and go through the process of reprogramming their equipment, changing over to new numbers, and informing callers of their new numbers.³²⁰ We also found that any numbering resource optimization benefits from this

³¹⁵ *First Report and Order*, 15 FCC Rcd at 7598-99, para. 54.

³¹⁶ We required in the *First Report and Order* the NANPA, with cooperation from the NANC, to develop criteria to assess applications for initial and growth numbering resources.

³¹⁷ *First Report and Order*, 15 FCC Rcd at 7615, para. 98.

³¹⁸ *Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech – Illinois*, Declaratory Ruling and Order, 10 FCC Rcd 4596 (1995) (*Ameritech Order*).

³¹⁹ *Ameritech Order*, 10 FCC Rcd at 4605, 4607-09, 4610-12, paras. 21-36.

³²⁰ *Id.* at 4608.