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

In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Petition for Declaratory Ruling and Request For Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717	)	CC Docket No. 96-98

COMMENTS

The National Exchange Carrier Association, Inc. (NECA) submits these comments in the matter captioned above.[1] In this phase of the numbering resource optimization (NRO) proceeding, the Commission adopts further administrative and technical measures intended to promote access to, and efficient use of, numbering resources.[2] As in earlier phases of the NRO rulemaking proceeding, the *Second FNPRM* seeks comment on the recovery of pooling shared industry and direct carrier-specific costs.[3] NECA previously has commented on this issue, and again limits its comments to this area of the Commission's proposals.[4]

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[1] In the Matter of Numbering Resource Optimization, CC Docket No. 99-200, CC Docket No. 96-98, Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, *Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, And Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200*, FCC 00-429 (rel. Dec. 29, 2000) (*Second FNPRM*).

[2] *Id.*, para. 1.

[3] *Id.*, para. 179. This is the third time the Commission has sought comment on these issues. *See Numbering Resource Optimizaiton, etc.* CC Docket No. 99-200, RM 9258, NSD File No. L-99-17, NSD File No. L-99-36 (rel. June 2, 1999) 14 FCC Rcd 10322

I. IT IS UNNECESSARY TO DETERMINE POTENTIAL COST SAVINGS ASSOCIATED WITH TBNP, NOR TO SELECT AN ADMINISTRATOR PRIOR TO ESTABLISHING A COST RECOVERY MECHANISM.

The Commission notes that in its *Further Notice* it "requested additional cost information to . . . ascertain the appropriate cost recovery mechanism for the costs of thousands-block number pooling, including cost studies that take into account cost savings associated with thousands-block number pooling in comparison to the current numbering practices."[5] The Commission asks the same question here.[6] However, the Commission proposes to delay establishing "an appropriate national cost recovery mechanism for pooling costs" until *after* a national Pooling Administrator is selected, and a national pooling roll-out schedule is finalized, believing that pooling costs will somehow "be more readily ascertainable" at that time.[7]

The Commission observes that, after two separate requests for information regarding "the magnitude of incremental thousands-block number pooling costs," it still

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(1999); and *Numbering Resource Optimization*, CC Docket No. 99-200, Report And Order And Further Notice Of Proposed Rule Making (rel. Mar,31, 2000) 15 FCC Rcd 7574, 7575 (2000).

[4] *See Numbering Resource Optimization*, CC Docket No. 99-200, Joint Reply Comments of the National Exchange Carrier Association, Inc. and National Telephone Cooperative Association (fil. June 9, 2000); and *Numbering Resource Optimization*, CC Docket No. 99-200, Joint Comments of the National Exchange Carrier Association, Inc. and National Telephone Cooperative Association (fil. May 19, 2000) (Joint Comments); and *Numbering Resource Optimization, etc.*, CC Docket No. 99-200, RM No. 9258, NSD File No. L-99-17, NSD File No. L-99-36, NECA Reply (fil. Aug. 30, 1999); and *Numbering Resource Optimization, etc.*, CC Docket No. 99-200, RM No. 9258, NSD File No. L-99-17, NSD File No. L-99-36, NECA Comments (fil. July 30, 1999.)

[5] *Second FNPRM*, para. 180, citing *Further Notice*, para. 253.

[6] *Id.*, para. 182.

[7] *Id.*, para. 181.

did not have an adequate record to establish a cost recovery mechanism.[8] But the Commission does not explain why costs will be more ascertainable after a Pooling Administrator is chosen.

It is not necessary to obtain detailed pooling cost data, nor to appoint a Pooling Administrator, before implementing TBNP cost recovery rules. As BellSouth has observed, "the Commission established a cost recovery scheme for number portability prior to having detailed cost information . . . There is no reason why the Commission cannot take the same approach here."[9]

Additionally, previous commenters agree that there is no rational basis for a showing of potential cost savings resulting from TBNP.[10] Yet, the Commission inexplicably continues to search for a method of cost recovery that contemplates avoided costs. The Commission can simply establish a cost recovery mechanism for the net added costs carriers incur as a result of TBNP implementation.

II. TBNP COSTS SHOULD BE RECOVERED VIA EXISTING MEANS, AND THE COMMISSION MUST ESTABLISH A COST RECOVERY MECHANISM FOR NON-LNP CAPABLE CARRIERS.

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[8] *Id.*, paras. 179-181.

[9] *BellSouth Comments* on *Further Notice*, at 19.

[10] *Numbering Resource Optimization*, CC Docket No. 99-200, USTA Comments at 8 ((T)he effect of pooling introduction will be quite limited); Sprint Comments at 16; WorldCom Comments at 20 ((I)t is impossible to quantify the exact cost savings . . .) BellSouth Comments at 19 (cautions the Commission against using a cost savings formula that compares speculative pooling savings with the actual costs of area code relief); (all filed May 19, 2000); Joint Reply Comments of NECA and NTCA at 2-3 ("For carriers subject to rate-of-return regulation, actual costs are recovered as incurred. As a matter of course, avoided costs would be excluded in the development of rates designed to recover TBNP costs.") (filed June 9, 2000) (Joint Reply).

The Commission has concluded that incumbent local exchange carriers subject either to price cap or rate-of-return regulation "may not recover carrier-specific costs directly related to TBNP via a federal charge assessed on end users, but may recover the costs through other cost recovery mechanisms."[11] As it has stated previously, NECA believes that recovery of TBNP costs via existing access charge mechanisms is a reasonable approach, and one that does not add to end user concerns and confusion over new line item charges appearing on their bills.[12] However, no matter what cost recovery method is adopted for LNP-capable carriers, the Commission must not adopt cost recovery rules that would unintentionally prohibit TBNP cost recovery for carriers whose switches are not LNP-capable.

III. THE COMMISSION MUST NOT IMPOSE TBNP UPON NON-LNP CAPABLE CARRIERS UNTIL IT ESTABLISHES A COST RECOVERY MECHANISM FOR THESE CARRIERS.

The Commission proposes in this *Second FNPRM* to require carriers to participate in pooling even if they are not required under Commission rules to implement LNP.[13] The Commission speculates that "extending its pooling requirements would further promote efficient use of numbering resources."[14] NECA believes that adoption of this policy would further penalize carriers outside the 100 largest metropolitan statistical

[11] *Second FNPRM*, para. 180 (note omitted).

[12] *See, e.g., Joint Reply* at 4.

[13] *Second FNPRM* at para. 184.

[14] *Id.*

areas[15] which already have no means of cost recovery for LNP. These carriers currently incur database query charges assessed by LNP-capable carriers, as well as costs to maintain regional LNP databases. Requiring them now to implement TBNP without cost recovery would only worsen this problem, because they will incur additional costs to modify systems and processes without the means to recover the associated costs. A mechanism must be established now that allows recovery of all TBNP costs of *all* carriers.[16]

IV. IF THE COMMISSION NONETHELESS IMPOSES POOLING REQUIREMENTS ON NON-LNP CAPABLE CARRIERS, IT SHOULD EXEMPT RURAL CARRIERS FROM SUCH REQUIREMENTS.

The Commission asks, if it were to impose TBNP on non-LNP capable carriers, whether it should exempt rural carriers from such requirements. While NECA does not support imposing TBNP requirements on any carrier that is not LNP-capable, if the Commission nevertheless decides on such a course, it must consider an exemption for rural carriers, which will be affected disproportionately by such a mandate.[17] Even this

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[15] 47 C.F.R. § 52.33 (a)(1)(i). LNP cost recovery rules provide that, once the shared costs of LNP are allocated to each carrier, individual carriers portions are treated as "carrier-specific" costs, directly related to provision of TBNP. Those costs may then be recovered by the carriers from "each end user it serves *from a LNP-capable switch outside the 100 largest metropolitan statistical areas* . . .) (emphasis added).

[16] NECA reminds the Commission again that similarly no cost recovery mechanism exists for LNP, for carriers serving end users outside the 100 largest metropolitan statistical areas from a non-LNP-capable switch. Joint Comments at 3 - 5; and *see generally* National Exchange Carrier Association, National Telephone Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies, and United States Telecom Association, Joint Petition for Expedited Interim Waiver, CC Docket No. 95-116 (filed March 19, 1999). This petition has not been acted upon by the Commission.

[17] As the Commission well knows, rural carriers face unusual challenges in deploying and maintaining networks, and in upgrading their operating systems. Not least among these

exemption, however, will not provide a solution to the problem of carriers bearing TBNP costs without any means of recovery. Thus, NECA urges the Commission not to view such an exemption for rural carriers as an answer to the current cost recovery dilemma faced by any carrier that is not LNP-capable.

V. CONCLUSION

For the reasons stated herein, NECA believes it is unnecessary to determine potential cost savings associated with TBNP prior to establishing a cost recovery mechanism. Nor is it necessary to delay implementation of a cost recovery mechanism until after a pooling administrator is selected. TBNP costs should be recovered via existing means, including interstate access charges, and this cost recovery method must be available to non-LNP capable carriers.

NECA believes that the Commission must not impose TBNP upon non-LNP capable carriers until a cost recovery method is established for these carriers. If the Commission decides to take this course of action, it should, at a minimum, exempt rural carriers from such requirements. Notwithstanding this exemption, the Commission must recognize that all carriers will incur TBNP-related costs, whether or not they are required to provide LNP or TBNP. With, or without, an exemption, non-LNP capable carriers cannot recover these costs.

As the Commission itself has already tentatively concluded, rate-of-return carriers should be allowed to assign TBNP (and LNP) costs to the interstate jurisdiction, and

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challenges is providing state-of-the-art services to customers in sparsely populated areas, at affordable prices. Rural carriers have a much smaller subscriber base than their larger urban counterparts, over which to amortize additional investment or expenses related to network upgrades, operating systems modifications, or operations improvements.

recover them through interstate access charges.[18] There is widespread support for this cost recovery methodology.[19] The Commission should resolve this problem now, by adopting its tentative conclusion.

Respectfully submitted,

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[18] ("[W]e tentatively conclude that incumbent LECs subject to rate-of-return or price-cap regulation should recover their carrier-specific costs directly related to thousands-block pooling implementation through the existing cost recovery mechanisms of rate-of-return or price-cap adjustments.") NPRM at ¶ 204. (Note omitted.)

[19] *See* FNPRM at para. 252, citing separate comments of NECA; New Hampshire Commission; New York Commission; and Ohio Commission. ("Several parties agree with the tentative conclusion that thousands-block number pooling costs should not be recovered through a federal charge assessed on end users, but should be recovered through access charges.") Only one commenter, MCI WorldCom, opposed recovery via access charges.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Comments was served this 14th day of February 2001, by electronic delivery or first class mail, to the persons listed below.

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