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Before The
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Numbering Resource Optimization	)	**CC Docket No. 99-200**
	)	

To: The Commission

COMMENTS OF VOICESTREAM WIRELESS CORPORATION

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SUMMARY

As the fastest growing provider of PCS in the United States, and one of the major nationwide providers of communications services in the United States, VoiceStream is keenly aware of the need to utilize numbering resources as efficiently as possible without restricting access to numbering resources that wireless operators need to serve customers. VoiceStream welcomes many of the measures that the Commission has already adopted or proposed. The Commission, however, should not adopt any measures that will limit wireless operators' access to numbering resources necessary to serve their customers or impose infrastructure costs and ongoing expenses that are not proportionate to the goal of using numbering resources as efficiently as practical. The Commission should examine the effect of the measures that it has already adopted before adding the more controversial and unproven optimization measures discussed in the *Second Further Notice*. The Commission should also adjust its current policies to ensure that wireless operators that genuinely need additional numbering resources are not denied access or forced to clear unnecessary hurdles.

One phenomena that currently is preventing operators like VoiceStream from obtaining desperately needed numbering resources is the exhaust of area codes before relief area codes are in place. In order to provide immediate and transitional relief to all carriers and operators under these circumstances, the Joint Wireless Commenters (which include VoiceStream) submitted a proposal for transitional phased-in overlays. This proposal will ensure that all carriers and operators – whether LNP-capable or not – have access at all times to adequate numbering resources. It will also reduce the burden on state public utility commissions and the Commission by eliminating the need for carriers and operators to seek relief outside of jeopardy procedures or expedited code activation. The Commission should adopt the Joint

Wireless Commenters proposal in its entirety in order to gain these benefits without discriminatory treatment of carriers or wireless operators.

For similar reasons, the Commission should adopt a safety valve that allows carriers and operators to receive additional numbering resources when they have a three-month supply or less of numbering resources without regard to utilization rate. This proposal will ensure that the optimization measures that the Commission has already adopted do not unintentionally harm carriers and operators or their customers, and that carriers and operators are not forced to seek a waiver of the utilization threshold when they need additional numbering resources but do not meet the applicable utilization threshold. The proposed safety valve would enable carriers and operators to serve their customers and reduce the burden on carriers and operators, state public utility commissions and the Commission by eliminating the need for waivers. The Commission should implement the safety valve measure immediately.

The Commission should refrain from using the withholding of numbering resources as an enforcement device. The withholding of numbering resources will harm end users and inhibit competition. It is an overly broad and harsh enforcement measure. The Commission should instead work with carriers and operators to manage localized numbering problems, create incentives for compliance, and use its traditional enforcement measures, including forfeitures and cease and desist orders, as needed.

The Commission should reject "market-based" numbering allocation schemes. First and foremost, the Commission lacks the statutory authority to implement the proposed "market-based" numbering allocation scheme, as the majority of Commissioners explained at the open meeting where they adopted the *Second Further Notice*. "Market-based" allocation

schemes would not increase the efficiency with which carriers or operators utilize numbering resources. Moreover, "market-based" allocation schemes are inherently discriminatory and harmful to competition.

The Commission also should retain sole authority to conduct audits at the federal level. Permitting states to perform "for cause" audits would duplicate federal "for cause" audits. Permitting states to perform random audits would increase the burden of carriers and operators exponentially and subject carriers and operators with multi-state coverage to multiple audit procedures and increased chances for unjustified audits. Similarly, the Commission should maintain the current level of state access to mandatory reporting data, as well as standard and customized NANPA reports, because increased access is unnecessary and it would dramatically increase the risk of inadvertent data disclosures.

Finally, VoiceStream welcomes the Commission's discussion of rate center consolidation and request for comment on measures that would create incentives for further rate center consolidation. As the Commission recognizes, rate center consolidation is a crucial component of numbering optimization. Therefore, VoiceStream urges the Commission to direct NANC and NANPA to work with carriers and operators to analyze the benefits of rate center consolidation by identifying, at a minimum, the impact on the life expectancy of the NANP of consolidating all rate centers that are now in the same economic communities of interest. These analyses should be completed on an MSA by MSA basis beginning with the top one hundred MSAs. After the top one hundred MSAs have been analyzed, then the remaining areas could be analyzed on a state-by-state basis. If the results of these analyses indicate that rate center

consolidation will significantly prolong the life of the NANP, then the Commission should press state public utility commissions and carriers to consolidate rate centers as quickly as possible.

TABLE OF CONTENTS

Page No.

I. TRANSITIONAL PHASED-IN OVERLAY AREA CODES SHOULD BE PERMITTED IN ACCORDANCE WITH THE PROPOSAL OF THE JOINT WIRELESS COMMENTERS 2

A. Long-Term Technology- and Service-Specific Overlays Are Not Effective Means For Improving Numbering Utilization. 3

B. The Commission Should Adopt the Transitional Phased-In Overlay Proposal of the Joint Wireless Commenters. 5

II. THE COMMISSION SHOULD CREATE A SAFETY VALVE SO THAT CARRIERS OR OPERATORS WITH A THREE-MONTH OR LESS SUPPLY OF NUMBERING RESOURCES QUALIFY FOR NUMBERING RESOURCES WITHOUT REGARD TO UTILIZATION RATE ... 8

III. THE COMMISSION SHOULD NOT WITHHOLD NUMBERING RESOURCES AS AN ENFORCEMENT DEVICE 11

A. Numbering Resources Should Not Be Used as an Enforcement Device. 11

B. Numbering Resources Should Not Be Withheld When Related Entities Fail, Or Are Unable, To Comply With Mandatory Reporting Requirements. 13

IV. THE COMMISSION DOES NOT HAVE THE STATUTORY AUTHORITY TO IMPLEMENT A "MARKET-BASED" ALLOCATION SYSTEM AND ANY SUCH SYSTEM WOULD NOT IMPROVE EFFICIENCY IN ANY EVENT 16

A. Congress Has Not Authorized the Commission To Implement a "Market-Based" Allocation System for Numbering Resources 17

B. Numbering Resources Should Not Be Auctioned in the Primary Market. 20

C. The Commission Should Not Create a Secondary Market for Numbering Resources. 26

V. NUMBERING AUDITS SHOULD REMAIN SOLELY AT THE FEDERAL LEVEL 28

VI. THE CURRENT LEVEL OF STATE ACCESS TO MANDATORY REPORTING DATA SHOULD BE MAINTAINED 30

VII. VOICESTREAM SUPPORTS THE COMMISSION'S EFFORTS TO ENCOURAGE FURTHER RATE CENTER CONSOLIDATION 31

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To: The Commission

COMMENTS OF
VOICESTREAM WIRELESS CORPORATION

VoiceStream Wireless Corporation ("VoiceStream") submits its comments on the Commission's *Second Further Notice of Proposed Rulemaking* ("*Second Further Notice*") in the above-captioned proceeding.[1] VoiceStream is the fastest growing provider of personal communications services in the United States, one of the major nationwide providers of communications services in the country, and the GSM operator with the largest geographic coverage worldwide. Most of the markets in which VoiceStream provides service have faced area code exhaust one or more times during the past three years, and VoiceStream has been unable to obtain adequate numbering resources in some of these markets. Accordingly, VoiceStream has a critical interest in ensuring that numbering resources are utilized as efficiently as possible and that all carriers and operators have timely access to adequate numbering resources.

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1 *Numbering Resource Optimization; Petition for Declaratory Ruling and Request for Expedited Action; Petition for Declaratory 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 Further Notice*").

As explained in more detail below, VoiceStream urges the Commission to (1) permit states to implement transitional phased-in overlays in accordance with the proposal submitted by the Joint Wireless Commenters; (2) reduce the burdens on the Commission, state public utility commissions, carriers, and operators by creating a safety valve that entitles carriers and operators with a three-month or less supply of numbering resources to be assigned additional numbering resources without regard to utilization rate; (3) use incentives and rely on traditional enforcement measures rather than withholding codes from carriers or operators; (4) reject proposals for "market-based" allocation of numbering resources; (5) retain sole authority to perform numbering audits at the federal level; (6) maintain the current level of state access to mandatory reporting data; and (7) press for further rate center consolidation.

I. TRANSITIONAL PHASED-IN OVERLAY AREA CODES SHOULD BE PERMITTED IN ACCORDANCE WITH THE PROPOSAL OF THE JOINT WIRELESS COMMENTERS

As one of the "Joint Wireless Commenters," VoiceStream fully supports the proposal for phased-in area code relief filed with the Commission on November 15, 2000. This proposal would provide the state public utility commissions with another means to address NXX code exhaust. Transitional overlays should be used sparingly, however, and only when state public utility commissions are unable to implement an all service overlay or a geographic split fast enough to prevent NXX exhaust. Technology- or service-specific overlays should not be utilized or, if forced on the industry, should not be used on a long-term basis.

A. Long-Term Technology- and Service-Specific Overlays Are Not Effective Means For Improving Numbering Utilization.

VoiceStream respectfully submits that it would never be appropriate to permit states to establish long-term overlays for specific services, no matter what those services may be.[2] When all of the relevant factors are considered, it becomes clear that all-service overlays are far preferable to technology- or service-specific overlays from the consumer, competitive and efficiency perspectives.[3] The long-term solution for improving numbering utilization is to reduce the degree of fragmentation in the numbering allocation system so that the same telephone numbers can be used across the largest feasible geographic area by all of the carriers and operators providing service in that area. This reduces the risk that available numbering resources will be stranded, as well as the need to make predictions about future growth patterns, which may or may not prove to be accurate. By contrast, technology- and service-specific overlays increase the probability that available numbering resources will be stranded. As the NANPA Director has explained, technology- and service-specific overlays "will almost certainly lead to waste of valuable numbering resources . . . ."[4]

Technology- and service-specific overlays would not increase the efficiency with which carriers and operators utilize numbering resources. Carriers and operators need the same amount of numbers whether they operate in an all-service overlay or in a technology- or service-specific overlay. The Commission has also recognized this, explaining that "[w]hat extends the

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2 *See Second Further Notice* at ¶ 142.

3 *See id.* at ¶ 131.

4 Letter from Ronald R. Conners, Director, North American Numbering Plan Administration, to Geraldine A. Matise, Chief, Network Services Division, Common Carrier Bureau, FCC (Mar. 21, 1996).

life span of a relief plan, however, is not so much the wireless overlay as the introduction of a new NPA with its 792 additional NXXs."[5] Nothing has changed since the Commission made this finding.

Technology- and service-specific overlays are also inherently discriminatory. The evidence of this discrimination is on the record of numerous proceedings before the Commission and various state public utility commissions, including Colorado, Connecticut and Illinois. For these same reasons, the Commission has repeatedly concluded that technology- and service-specific overlays should never be implemented on a long-term basis. When the Commission first prohibited states from implementing technology- and service-specific overlays, it explained that:

> A successful administration of the NANP should seek to accommodate new telecommunications services and providers by making numbering resources available in a way that does not unduly favor one industry segment or technology and by making numbering resources available in an efficient, timely basis. We believe that the assignment of numbers based on whether the carrier provides wireless service is not consistent with these objectives and could hinder the growth and provision of new beneficial services to consumers.[6]

VoiceStream urges the Commission to reaffirm that long-term technology- and service-specific overlays are inherently inconsistent with the principle of nondiscriminatory access to numbering resources.

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5 *Second Report and Order*, 11 FCC Rcd at 19528, ¶ 306.

6 *Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech – Illinois*, 10 FCC Rcd 4596, ¶ 29 (1995) ("*Ameritech Order*").

B. The Commission Should Adopt the Transitional Phased-In Overlay Proposal of the Joint Wireless Commenters.

Notwithstanding the unlawfulness of long-term technology-specific overlays, there may be instances where operators can accept some level of discrimination that is limited in duration and scope in order to obtain numbering resources where the alternative is no numbers at all. This clearly is a Hobson's choice. The Act requires that all carriers and operators should have access to adequate numbering resources on a timely basis. Because non-LNP-capable Joint Wireless Commenters have already faced this "doomsday" scenario and most likely will face it again, they are willing to resort to last-ditch measures in order to continue to serve new subscribers. For this reason, the Joint Wireless Commenters have requested the Commission to permit states to implement phased-in overlays under narrowly circumscribed conditions.

VoiceStream urges the Commission to adopt in its entirety the phased-in overlay proposal filed by the Joint Wireless Commenters with the Commission on November 15, 2000. Adoption of the proposal on a piecemeal basis would eliminate aspects of the proposal that ensure that there will be no long-term discrimination or stranding of numbering resources. The proposal also enables access to adequate numbering resources by all carriers and operators on a timely basis and ensures that no numbering resources are stranded at any time during or after implementation of the transitional overlay.

VoiceStream also supports the Commission's tentative conclusion that transitional technology-specific overlays may not include mandatory "take-backs" and may only be implemented on a prospective basis.[7] The Commission is absolutely correct that mandatory

[7] *Second Further Notice* at ¶ 134.

take-backs in the transitional phased-in overlay context would exclusively affect customers of non-LNP-capable operators, and to do so would be unreasonably discriminatory. Imposing these burdensome costs solely upon the customers of one group of operators would cause the type of disparate impact that adversely affects competition.

With respect to the geographic boundaries of a transitional technology-specific overlay, it is important to ensure that these boundaries do not create any additional complications or slow the implementation of either the transitional or the permanent area code relief. Therefore, VoiceStream submits that the best policy would be for states to use the existing area code boundaries for the boundaries of the phased-in overlay. However, to maximize numbering efficiency, VoiceStream also supports the implementation of area code relief that covers multiple existing area codes. In any case, the geographic boundaries of a phased-in overlay should match the geographic boundaries of existing area codes even if it covers the geographic area of multiple existing area codes.

Any segregation under phased-in overlays must be short in duration. The overlay code must be converted to an all-services overlay almost immediately and used to supply numbering resources to all carriers and operators serving the underlying geographic region as soon as there are no remaining NXX codes in the original NPA.[8] In this way, the Commission can ensure that there will be no ongoing discrimination between LNP-capable carriers and non-LNP-capable carriers and operators. To the extent that a departure is necessary under these specific circumstances in order to facilitate rapid implementation of transitional overlays, VoiceStream supports a limited waiver of the ten-digit dialing requirement until the transitional

[8] *Id.* at ¶ 137.

overlay is converted to an all-services overlay or until wireless operators are required to participate in thousands-block number pooling, whichever occurs earlier.

VoiceStream still supports allowing transitional overlays to be established only when the original NPA has the greater of (1) thirty NXX codes; or (2) a quantity of NXX codes equal to one time the number of rate centers in the old NPA (*e.g.,* if there are fifty rate centers in the old NPA the trigger would be fifty NXX codes; if there are twenty rate centers, the trigger would be thirty NXX codes). Implementation of the phased-in overlay can only take place where there is a limited number of available NXX codes so that the length of time during which non-LNP-capable carriers and operators are subject to discrimination is limited. This "trigger" is designed to ensure that the number of NXX codes remaining in the existing NPA would not adversely impact states where rate centers have not yet been consolidated. For example, thirty NXX codes may last a sufficient time in an NPA with only one rate center because new entrants could enter the market by requesting only one code and carriers and operators that already serve the market could request growth codes. However, thirty NXX codes would not last a sufficient time in an NPA with fifty rate centers, because one new entrant could request and receive all of the available NXX codes, which would force all other carriers and operators immediately to begin receiving codes from the new NPA.

II. THE COMMISSION SHOULD CREATE A SAFETY VALVE SO THAT CARRIERS OR OPERATORS WITH A THREE-MONTH OR LESS SUPPLY OF NUMBERING RESOURCES QUALIFY FOR NUMBERING RESOURCES WITHOUT REGARD TO UTILIZATION RATE

VoiceStream welcomes the Commission's recognition that certain conditions may prevent carriers and operators from meeting the rate-center based utilization threshold.[9] VoiceStream submits that it is crucial for the Commission to establish a "safety valve" apart from the general waiver process to allow carriers and operators that do not meet the utilization threshold in a given rate center to obtain additional numbering resources.[10] In order to ensure that no carrier or operator runs out of numbers due to the utilization threshold requirement, the Commission should allow carriers and operators with a three-month or less supply of numbering resources to qualify for numbering resources without regard to utilization rate.

Three months, or ninety calendar days, is the minimum supply of numbering resources that a carrier can have before it applies for additional numbering resources. By allowing a carrier to be assigned additional numbering resources when it has a ninety calendar day or less supply of numbering resources, the Commission will ensure that there is just enough time both to process the application[11] and to activate the code when granted.[12]

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9 *See id.* at ¶ 188.

10 *Id.*

11 The safety valve that VoiceStream proposes would provide ten calendar days for NANPA or the Pooling Administrator ("PA") to review the application and inform the applicant if additional documentation is required, ten calendar days for the applicant to submit additional documentation if necessary, and four calendar days for the NANPA or PA to determine whether the additional documentation is sufficient.

12 The activation time includes sixty-six calendar days as specified by the INC CO Code Assignment Guidelines.

A carrier or operator that is adding subscribers so quickly that it has less than a ninety-day supply of numbers before it reaches the applicable utilization threshold will run out of numbers if it is forced to wait until it reaches the utilization threshold before it can apply for additional numbering resources. Without a safety valve procedure, these carriers and operators will be forced to prepare and file a waiver request with the Commission – or state public utility commission where relevant – even before the ninety-day point is reached. This process imposes burdens and costs on both carriers and operators as well as the Commission. Unless waiver requests are resolved immediately (and VoiceStream through actual experience knows that they will not), carriers and operators will run out of numbers, and this in turn harms competition and hurts consumers. The burdens and uncertainty surrounding the waiver process might also cause operators to delay the rollout of new product and promotional service offerings in order to avoid the possibility of running out of numbers or being forced to seek a waiver. Operators are forced into circumstances where they have to stall promoting new wireless devices and attractive new rate plans for fear of stimulating high sales levels; customers lose out and competition suffers.

VoiceStream and other wireless operators already have been forced to request waivers of state requirements – or to petition for numbering resources outside of the rationing process – in order to obtain additional numbering resources.[13] The process is expensive, time consuming, and laden with uncertainty. There are numerous reasons why VoiceStream and other

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[13] For example, in the past several months, VoiceStream has filed petitions relating to numbering requirements with the Commission and with the state public utility commissions of Florida, Indiana, Massachusetts and Pennsylvania. *See also* Emergency Petition by AT&T Wireless Services for One Additional 508-NXX Code (filed Apr. 21, 2000); MediaOne Request for Additional Exchange Codes Outside of Rationing Plan (Feb. 11, 2000).

operators are forced to request waivers of utilization thresholds because their growth rate makes it impossible to wait until they reach the utilization threshold before they apply for additional numbering resources.[14] Moreover, the importance of the safety valve will grow as the utilization threshold increases on an annual basis.

VoiceStream urges the Commission to establish a safety valve quickly without waiting for additional data on the extent of the problem. Because utilization thresholds have yet to be introduced in many parts of the nation, the existing data will not adequately reflect the scope of the problem. Moreover, the data will not reflect the inhibiting effect that the lack of a safety valve will have on competition and carriers' and operators' decisions to roll out service and product offerings, or even marketing campaigns. The safety valve that VoiceStream has proposed will have no negative effect on the efficiency with which numbering resources are utilized. Moreover, the Commission will be able to monitor carriers and operators that utilize the safety valve procedure. Therefore, the public interest will be served by the adoption of a safety valve procedure that allows carriers and operators with a three-month or less supply of numbering resources to qualify for numbering resources without regard to utilization rate.

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[14] For example, a carrier that does not satisfy the utilization threshold may nonetheless need additional numbering resources in order to: (1) meet consumer demand in a high growth area; (2) fulfill a single order from a customer requesting a large number of phones; (3) satisfy simultaneous orders from multiple customers; (4) introduce a new service or product offering; (5) compete with other carriers to serve a new subdivision, office park, or campus; (6) offer specialized services such as Calling Party Pays or Reverse Toll Billing; or (7) migrate from Type 1 to Type 2 interconnection. In each of these circumstances, a carrier may have an immediate and certain need for additional numbering resources despite not meeting the applicable utilization threshold.

III. THE COMMISSION SHOULD NOT WITHHOLD NUMBERING RESOURCES AS AN ENFORCEMENT DEVICE

In the *Second Report and Order,* the Commission signaled its intention to withhold numbering resources in order to enforce the Act and its numbering rules and orders. Specifically, the Commission tentatively concluded that carriers and operators that violate its numbering requirements should be denied numbering resources. The Commission also tentatively concluded that, in certain instances, numbering resources should be withheld from carriers and operators when related entities fail to comply with its mandatory reporting requirements. VoiceStream urges the Commission to utilize incentives and to rely on its traditional enforcement tools, such as forfeitures and cease and desist orders, if necessary. Withholding numbering resources is an unnecessarily harsh and overly broad device. It punishes consumers and harms competition.

A. Numbering Resources Should Not Be Used as an Enforcement Device.

VoiceStream vehemently opposes the Commission's tentative conclusion that, in addition to being subject to its traditional enforcement tools, carriers and operators that violate its numbering requirements should also be denied numbering resources.[15] The Commission consistently has recognized that carriers and operators cannot compete in the marketplace or introduce new and innovative products and services without numbering resources.[16] Withholding numbering resources from carriers and operators harms competition and deprives consumers of their vendor of choice. This harms all end users, not merely the carrier or operator.

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15 *Second Report and Order* at ¶ 154.

16 *See, e.g., id.* at ¶ 4.

Moreover, withholding numbering resources is fundamentally inconsistent with the Commission's mandate under Section 251(e), which requires the Commission to make telephone numbers available to all carriers and operators on an equitable basis.[17]

Monetary forfeitures and cease and desist orders are far better enforcement tools than withholding numbering resources, because they do not create the same risks to consumers or to competition. Monetary forfeitures may well be the best tool for creating economic incentives for compliance (albeit a negative incentive) with the Commission's numbering requirements. Moreover, the procedures for imposing monetary forfeitures are well established, and would not require the Commission to adopt additional rules or create new procedures.[18] Therefore, VoiceStream urges the Commission not to adopt additional rules or create yet more procedures so that an unnecessary additional enforcement tool – the withholding of numbering resources – will be available to punish carriers and operators that violate the Commission's numbering policies.

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[17] 47 U.S.C. § 251(e)(1) ("The Commission shall create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. . . ."). Withholding numbering resources – like revoking numbering resources – from any carrier or operator is not a penalty that the Commission should propose lightly. Withholding numbering resources would be akin to revoking a license to the extent that a carrier's or operator's operations and growth are put on hold. Accordingly, if the Commission were to proceed with this proposal, it would need to comply with adequate procedural safeguards before withholding numbering resources, including, for example, holding an evidentiary hearing to address whether in particular cases numbering resources should be withheld from a carrier due to failure to comply with the mandatory reporting requirements.

[18] *See, e.g., Local Competition and Broadband Reporting*, 15 FCC Rcd 7717, ¶ 105 (noting that the Commission has the authority to enforce compliance with its reporting requirements through imposing forfeitures).

B. Numbering Resources Should Not Be Withheld When Related Entities Fail, Or Are Unable, To Comply With Mandatory Reporting Requirements.

VoiceStream disagrees with the Commission's tentative conclusion that carriers and carriers and operators should, in certain instances, have numbering resources withheld when related entities fail to comply with its mandatory reporting requirements.[19] The withholding of numbering resources from an entity that meets all of the requirements for additional numbering resources solely due to the failure of a related – but separate – entity to comply with the mandatory reporting requirements would be an unlawful penalty.

Sections 501 through 503 of the Act govern the Commission's authority to impose penalties for violations of the Act, or a Commission rule or order.[20] These sections authorize the Commission to impose a penalty against an entity that violates – or causes to be violated – the Act, rule or order at issue. Thus, if a particular entity itself has not violated – or caused to be violated – the Act, rule or order at issue, then the Commission has no authority to impose a penalty on that entity. Moreover, penalties imposed pursuant to Sections 501 through 503 of the Act must also be consistent with the other Sections of the Act. However, the withholding of numbering resources from an entity due to the failure of a related entity to comply with mandatory reporting requirements would be inconsistent with Section 251(e)(1),

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19 *See Second Further Notice* at ¶ 150.

20 *See* 47 U.S.C. § 501 ("Any person who willfully and knowingly does or causes or suffers to be done any act, matter, or thing, in this Act prohibited or declared to be unlawful . . . shall . . . be punished for such offense. . . ."); 47 U.S.C. § 502 (applies to "Any person who willfully and knowingly violates any rule, regulation, restriction, or condition made or imposed by the Commission"); 47 U.S.C. § 503 ("Any person who is determined by the Commission . . . to have willfully or repeatedly failed to comply with any of the provisions of this Act or of any rule, regulation, or order issued by the Commission . . . .").

which requires the Commission to make telephone numbers available to all carriers and operators on an equitable basis.[21] Accordingly, the Commission does not have the authority under the Act to withhold numbering resources from an entity solely due to the failure of a related entity to comply with its mandatory reporting requirements.

In any event, withholding numbering resources from related entities is not sound policy if the goal is to create incentives for compliance with the mandatory reporting requirements, as explained above. To the extent that the Commission seeks to withhold numbering resources from a related entity, the necessary procedural safeguards would become even more complex, because the Commission would have to determine which carrier(s) or operator(s), if any, should be forbidden from receiving additional numbering resources. As the Commission has noted, the complexities of corporate structure will undermine its objectives for imposing a penalty.[22] Due to the numerous possible corporate structures, it would be very difficult for the Commission to determine in a timely fashion whether numbering resources should be withheld from an applicant because one of its related entities has failed to comply with the mandatory reporting requirements. This problem is magnified by the many mergers and acquisitions that are now occurring in the industry.

The Commission also would need to verify the relationship between the carriers and operators to ensure that all carriers and operators receive the same treatment. It would be exceedingly difficult to determine whether any or all of these related entities are in full

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21 47 U.S.C. § 251(e)(1) ("The Commission shall create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. . . .").

22 *See Second Further Notice* at ¶ 150.

compliance with the mandatory reporting requirements. Rather than creating incentives to comply with the reporting requirements, it is far more likely that attempts to identify related entities and determine whether these entities are in full compliance with the reporting requirements before granting any numbering applications will result in uneven application of the penalty and, as such, discriminatory treatment.

A far better way to create the desired incentives would be to impose monetary forfeitures for failure to comply with the mandatory reporting requirements, as explained above. Monetary forfeitures create economic incentives both for the service provider and the parent company to comply with the mandatory reporting requirements without harming competition or end users in the process. This is particularly true with respect to numbering requirements, because operational differences between various types of carriers and operators (*e.g.*, significant differences in billing and assignment systems) may affect the ability of carriers and operators to comply with – or even demonstrate compliance with – those requirements in the same manner. The procedures for imposing monetary forfeitures would also allow the Commission to investigate fully potential violations, as well as prevent the Commission from unnecessarily penalizing carriers or operators for inadvertent errors, before harming competition or end users. Therefore, VoiceStream urges the Commission to rely on its forfeiture authority to create incentives for related carriers and operators to comply with the mandatory reporting requirements.

IV. THE COMMISSION DOES NOT HAVE THE STATUTORY AUTHORITY TO IMPLEMENT A "MARKET-BASED" ALLOCATION SYSTEM AND ANY SUCH SYSTEM WOULD NOT IMPROVE EFFICIENCY IN ANY EVENT

In the *Second Further Notice*, the Commission seeks comment for the third time in this proceeding on "market-based" allocation systems for numbering resources.[23] The comments that the Commission has received on this issue reflect nearly universal agreement that "market-based" number allocation schemes are fundamentally flawed, regardless whether the Commission has the necessary statutory authority to adopt a "market-based" number allocation scheme.[24] Nothing that the Commission has proposed, or indeed could propose, in the *Second Further Notice* changes the fact that "market-based" number allocation schemes will not lead to more efficient numbering utilization, but will inhibit competition and result in discrimination and higher costs for consumers. Equally as important, however, is that the Commission lacks statutory authority to adopt a "market-based" allocation scheme.

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23 *See id.* at ¶¶ 156-78.

24 *See, e.g.,* Second Century Comments at 1-6; Ad Hoc Comments at 8-14; ALTS Comment at 8-9; AT&T Comments at 10-13; Bell Atlantic Comments at 9-11; BellSouth Comments at 13-16; CompTel Comments at 6-8; Cox Comments at 5-8; GSA Comments at 8-9; GTE Comments at 10-11; MediaOne Comments at 7-8; Joint Comments of the Consumer Advocates at 23-30; Missouri PSC Comments at 3-5; Nextel Comments at 6-7; Nextlink Comments at 12-15; PCIA Comments at 16-22; RCN Telecom Services Comments at 2-4; RICA Comments at 1-7; SBC Comments at 14-17; Time Warner Comments at 7-8; USTA Comments at 6; Verizon Comments at 24-27; Winstar Comments at 13-21; WorldCom Comments at 5-20. VoiceStream also disagrees with the FCC's interpretation of the comments of some utility commissions as "generally supportive." *See, e.g.,* California PUC Comments at 9-12 (identifying a number of difficulties the FCC must resolve to make a pricing scheme work and urging the FCC "to consider carefully whether the predictable costs associated with the anticipated efficiencies of charging carriers for numbers, on balance, will benefit the public. Only if the answer to that question is 'yes' should the Commission proceed with a pricing scheme.").

A. Congress Has Not Authorized the Commission To Implement a "Market-Based" Allocation System for Numbering Resources.

In the *Second Further Notice*, the Commission again requests comment on whether it possesses the statutory authority to implement a "market-based" system for allocating numbering resources because it provides more detailed information on the form that "market-based" mechanisms might take.[25] Nothing proposed in the *Second Further Notice* changes the fact that the Commission lacks statutory authority to adopt a "market-based" system for allocating numbering resources.

In the 1996 Act, Congress instructed the Commission (1) to ensure that numbering resources are made available on an equitable basis;[26] (2) to determine the costs of numbering administration and number portability;[27] and (3) to ensure that the costs of numbering administration and number portability are borne by all telecommunications carriers and operators on a competitively neutral basis.[28] Notably absent from this Congressional mandate, however, is Commission authorization to adopt a "market-based" allocation system for numbering resources.

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25 *Second Further Notice* at ¶ 158.

26 Section 251(e)(1) of the Act provides in relevant part as follows: "The Commission shall create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis." 47 U.S.C. § 251(e)(1).

27 Section 251(e)(2) of the Act provides in relevant part as follows: "The cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission." 47 U.S.C. § 251(e)(2).

28 *Id.*

"Market-based" allocation schemes are not new to Congress or the Commission. In Section 309(j) of the Act, for example, Congress authorized the Commission to auction spectrum if mutual exclusivity in application and licensing proceedings could not be avoided through the use of engineering solutions, negotiation, threshold qualifications, service regulations, or other means.[29] Section 309(j) is very explicit, and it provides detailed instruction on, among other things, the necessary design of competitive bidding systems, the contents of the competitive bidding regulations, and the bidder and licensee qualifications.[30] The explicitness of Section 309(j) and the detail with which the auction requirements are set forth reflect the importance that Congress places on the authority to utilize a "market-based" allocation scheme and the recognition of the harm that occurs when "market-based" allocation schemes are used inappropriately or implemented incorrectly. By contrast to Section 309(j), Section 251 contains no mention of "market-based" allocations systems or instructions on how such a system must operate. VoiceStream respectfully submits that Congress would have adopted explicit language similar to that in Section 309(j) if it had intended to authorize the Commission to allocate numbering resources under a "market-based" scheme.

The Commission cannot rely solely upon its general authority over numbering administration under Section 251(e)(1) to adopt a "market-based" allocation scheme for numbering resources. The Commission need look no further than Section 251(e)(2) to determine that it lacks the authority to adopt a "market-based" allocation scheme for numbering resources. Section 251(e)(2) must be interpreted either as an explicit constraint on the Commission's

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29 47 U.S.C. § 309(j).

30 *See id.*

general authority under Section 251(e)(1) or as an explicit additional authorization. Under either interpretation, however, Section 251(e)(2) limits the Commission's authority to determining the "cost" of establishing a numbering administration arrangement and ensuring that this cost is borne by all telecommunications carriers and operators on a competitively neutral basis.

"Market-based" allocation schemes for numbering resources are fundamentally inconsistent with Section 251(e)(2) because they are not designed to determine the cost of establishing a numbering administration arrangement or to ensure that this cost is borne by all telecommunications carriers and operators on a competitively neutral basis. Rather, they are designed to determine a "price" for the numbering resources itself, the full amount of which an individual carrier or operator must bear. Therefore, it is irrelevant how the proceeds from a "market-based" allocation system are used, because the "market-based" allocation system itself is not designed to accomplish the only statutorily permissible goal. The Act simply does not authorize the Commission to impose fees for numbering resources (i) that exceed the cost of establishing numbering administration arrangements and number portability or (ii) for purposes other than ensuring that these costs are borne by all telecommunications carriers and operators on a competitively neutral basis.

In addition to exceeding the Commission's authority under Section 252(e)(2), "market-based" allocation schemes cannot be reconciled with the goals of the 1996 Act. The 1996 Act is premised on the idea of fostering competition and removing barriers to market entry. However, requiring carriers and operators to pay for numbering resources would create new entry barriers, inhibit competition, and discriminate against various classes of carriers and operators as well as consumers.

B. Numbering Resources Should Not Be Auctioned in the Primary Market.

In the *Second Further Notice*, the Commission explains that it is exploring "market-based" allocation systems in the hope of providing incentives for carriers and operators to take and retain only as many numbers as they need, in the short term, to provide service to their customers.[31] Accordingly, the Commission again seeks comment on whether an auction would be the best and most efficient economic means of allocating numbering resources in the primary market. The best way to create incentives for carriers and operators to take and retain only as many numbers as they need, in the short term, to provide service to their customers is to ensure that additional numbering resources are always available on a timely basis when needed.

Carriers and operators have no incentive to take or retain numbers that they do not need, in the short term, to provide service to their customers when they are confident that they can obtain additional numbering resources on a timely basis. Unused numbering resources generate expenses without any revenue, and thus carriers and operators retain unused numbering resources only when they are not confident that they will be able to replace the numbers if subsequently needed. Moreover, the optimization measures that the Commission has already adopted, including the utilization thresholds, reporting requirements and reclamation procedures, will prevent carriers and operators from retaining numbers they have not placed in service. By contrast, "market-based" allocation systems could actually create incentives for carriers and operators to retain unused numbering resources in order to increase the costs of their competitors or to ensure that they do not have to pay for additional numbering resources in the future. Therefore, rather than charging for numbers, the Commission should take steps to increase

[31] *Second Further Notice* at ¶¶ 161-63.

carrier and operator confidence that adequate numbering resources will be available on a timely basis by ending rationing, ensuring that area code relief is implemented on a timely basis, and speeding the processing of applications for numbering resources by providing a safety valve.

Auctions would not improve the efficiency with which carriers and operators utilize numbering resources. Under the Commission's rules, a carrier or operator cannot apply for additional numbering resources until it has reached a utilization threshold of seventy-five percent and a six-month or less supply of numbering resources. Consequently, auctions would only effect the behavior of carriers and operators that have a utilization rate of seventy-five percent or greater and a six-month or less supply of numbering resources, because only these carriers and operators would qualify to participate in the auctions. Thus, auctions would only effect the behavior of a limited subset of carriers and operators, all of which by definition are already using their numbering resources efficiently. As such, auctions would have little to no effect on the efficiency with which carriers and operators utilize numbering resources.

Similarly, auctions would have little to no effect on the efficiency with which carriers and operators utilize numbering resources even if all carriers and operators were allowed to participate without regard to their current utilization or months-to-exhaust ("MTE"). First, a carrier's or operator's ability to obtain numbering resources in an auction would be related to its financial resources rather than the efficiency with which the carrier or operator utilizes its numbering resources. Second, the efficiency with which a carrier or operator utilizes the numbering resources it obtains in an auction will depend almost entirely on the success of its service offerings rather than the price it paid for the numbering resources. In fact, auctions could actually lead to more inefficient numbering utilization because carriers and operators might be

more reluctant to return unused codes or, in the event the Commission creates a secondary market, sell them to competitors, as explained in more detail below.

Unlike rate center consolidation, auctions have no effect on the quantity of numbers that a new entrant must obtain in order to compete with the incumbent. However, auctions would unnecessarily raise the costs of competitors or keep them from entering the market altogether. In addition, because number auctions would only affect new numbers, incumbent carriers and wireless operators would enjoy a significant cost advantage over new entrants. Under these circumstances, the incumbents would have an incentive to bid up the auction price as high as possible. By unnecessarily increasing the costs of providing service, auctions could also adversely affect rural areas that typically have many smaller business and lower income end users. These results are inconsistent with the 1996 Act, and should be rejected without further consideration.

Another equally important reason for rejecting "market-based" allocation schemes is that they will result in discrimination against classes of carriers and operators, types of technology, and groups of consumers. VoiceStream welcomes the Commission's recognition that it is not easy to establish economically efficient prices administratively.[32] As the Commission itself recognizes, it is not easy to establish economically efficient prices administratively. Indeed, VoiceStream submits that it would not be possible. For this reason, the Commission seeks comment instead on auctions, which set the price for numbering resources based on an individual carrier's or operator's willingness and ability to pay for those resources. However, prospective only auctions are discriminatory because other carriers or operators could rely on

[32] *Second Further Notice* at ¶ 165.

their existing numbering resources. Even if the Commission tried to charge for existing numbering resources, it could not replicate the price that any given carrier would have paid at auction for its existing numbering resources. Similarly, a flat fee for existing numbering resources would be discriminatory because it would not take into account critical differences among various carriers and operators, including for example, revenue per number. For example, a higher revenue service, such as broadband PCS ($50 average monthly revenue per unit), will support a higher cost per number than a lower revenue service, such as paging ($9 average monthly revenue per unit) or local phone service in some areas.

Auctions would also impose too many unnecessary administrative costs. In the *Second Report and Order*, the Commission compares the administrative costs of auctions to the cost of NANP expansion and the implementation of new area codes. Based on this simplistic comparison, the Commission believes that any administrative costs associated with establishing a market for numbers will be smaller than the benefit of extending the life of area codes and the NANP. However, this comparison is nonsensical without any accurate analysis of the length of time that auctions would delay the introduction of new area codes and expansion of the NANP. Moreover, the Commission should not underestimate the administrative burdens of "market-based" allocation schemes or the delay in issuing numbers that auctions would most likely cause. The Commission would have to establish bidding rules and accounts, monitor compliance with those rules, and ensure coordination with an auction database. The Commission would also have to undertake huge investigation and enforcement obligations to deal with charges of hoarding and brokering number blocks. For the reasons explained above, auctions would have little or no effect on the life of area codes or the NANP. Therefore, auctions would be far too costly to administer in light of the marginal effect they would likely have on the life of area codes or the

NANP. The Commission should focus instead on implementation and enforcement of the new numbering rules and further rate center consolidation.

VoiceStream urges the Commission to avoid imposing any additional costs on wireless operators and the consumers that they serve. Over the past several years, the Commission has imposed significant additional costs on wireless operators, including the cost of E-911 location technology, number portability and universal services. Wireless operators and consumers should not be required to pay even more because the Commission decides to auction numbers. Moreover, PCS operators and other service providers that have been required to participate in auctions for spectrum have already paid for the right to serve subscribers in their service territories. Requiring these same operators now to participate in a second unexpected auction for numbering resources would be like forcing a person who has just purchased a car at auction to participate in an unexpected second auction for the keys to the car. This would impose on new entrant PCS operators substantial additional costs that were not borne by incumbent cellular operators, which would further exacerbate the financial disparity that PCS operators have been forced to accept.

VoiceStream also vehemently opposes any proposal for the Commission and the states collectively to develop an agreed-upon life for the NANP.[33] This amounts to number rationing, which is fundamentally inconsistent with the Commission's authority under the Act. The Act unambiguously requires the Commission to make numbers available to telecommunications carriers and operators, not to adopt measures that create artificial scarcity that inevitably leads to carriers and operators delaying entry into new markets or the introduction

[33] *See id.* at ¶ 167.

of new services. Rationing has the unavoidable effect of inhibiting competition, which is impermissible under the Act.

Auctions for numbering resources would also be fundamentally inconsistent with past Commission auctioning practices. For example, when the Commission auctions spectrum, the winning operator receives an individual license for specifically identified frequencies. This license has a term of ten years, with an expectation of renewal. Accordingly, bidding operators are able to valuate the spectrum based on the assumption that they will have exclusive use of the spectrum for a minimum of ten years. However, if the Commission auctioned numbering resources, the winning carrier or operator would not receive any assurances that it could retain the numbers for a specified period of time, because after the operator assigns a number to an end user, the number may be (1) returned to the carrier or operator if that end user discontinues service and aged before the carrier or operator assigns the number to another end user; (2) returned to the carrier or operator if that end user discontinues service before the carrier or operator is required to return the number to NANPA or the Pooling Administrator; or (3) ported to another carrier or operator if the end user selects another carrier or operator to provide service using the number. This cycle can repeat endlessly, particularly given the new pooling and porting obligations. Therefore, bidding carriers and operators would not be able to valuate the numbers accurately, and the bidding process would be plagued by uncertainty, which leads to anomalous results that will not increase the efficiency with which carriers and operators utilize numbering resources.

C. The Commission Should Not Create a Secondary Market for Numbering Resources.

VoiceStream vehemently opposes any proposal to create a secondary market for numbering resources.[34] Rather, any carrier or operator that has the technical capability to provide unused numbering resources to another carrier or operator should return the unused numbering resources to NANPA or the Pooling Administrator, which – as an unbiased administrator – will ensure that the numbering resources are allocated on an equitable basis as required by Section 251(e)(1). Competition will suffer and significant discrimination will occur if the Commission creates a secondary market for numbering resources.

Although the idea of secondary markets has superficial appeal, its inherent flaws become apparent upon further reflection. As an initial matter, secondary markets will not lead to more efficient numbering utilization for the same reasons that numbering auctions in the primary market will not lead to more efficient numbering utilization, as explained above. For this reason alone, the Commission should reject the idea of creating a secondary market for numbering resources.

Another fundamental problem with secondary markets is that numbers, which all carriers and operators must have in order to provide service, are "created" solely by the NANPA or the Pooling Administrator. In other words, a carrier or operator cannot "create" its own numbers or purchase them from another "neutral" manufacturer. Therefore, if numbers are available from NANPA or the Pooling Administrator, then no carrier or operator will participate in the secondary market. However, if no numbers are available from NANPA or the Pooling

[34] *See id.* at ¶¶ 172-76.

Administrator, then carriers and operators will be forced either to purchase numbers in the secondary market from a competitor or decline to compete. The only circumstance in which this would not be true is if the numbers were available from an affiliated carrier that was willing to discriminate in favor of its related entity. Opportunities for hoarding and brokerage will surely develop, as they did for toll free numbers, for example. Under this scenario, secondary markets would either be totally unnecessary or they would create unacceptable incentives for discrimination and anti-competitive behavior, as well as undesirable side effects in the marketplace.

The inherent flaws of secondary markets are so deep that they cannot be cured through the use of private or public clearinghouses. Clearinghouses are designed primarily to prevent market distortions caused by exploitation of secrecy during negotiations, not to prevent carriers and operators from increasing the costs of their competitors by withholding elements necessary to provide service. For example, it is not too difficult to imagine what would happen to competition if the Commission allowed ILECs to set their own prices for unbundled network elements ("UNEs"). The creation of private or public clearinghouses would have no effect on the incentives of ILECs in this example. The anti-competitive incentives in secondary numbering markets are even stronger because carriers and operators cannot buy numbers from independent manufacturers or create their own numbers. Far from creating incentives for carriers or operators to use their numbering resources more efficiently so that they can sell unneeded numbers to other carriers and operators, secondary markets would create strong incentives for carriers and operators to hoard numbers to keep them out of the hands of their competitors. Brokers would reap huge financial windfalls. Therefore, the Commission should

reject proposals for secondary markets because it would be impossible to ensure that the secondary markets remain open, competitive, and effective.

V. NUMBERING AUDITS SHOULD REMAIN SOLELY AT THE FEDERAL LEVEL

In the *Second Further Notice*, the Commission sought comment on whether state public utility commissions should be given independent authority to conduct "for cause" and random audits in lieu of or in addition to the national audit program established in the *Second Report and Order*. The Commission should not delegate authority to the state public utility commissions to conduct "for cause" and random audits either in lieu of or in addition to the national audit program established by the Commission.

Permitting state public utility commissions to conduct for cause audits is unnecessary because carriers and operators are already subject to for cause audits at the federal level. If the Commission permitted states to conduct for cause audits, carriers and operators would either be subject to duplicative audits – one at the federal level and one at the state level – or to audits at the state level for events that the federal auditors found did not merit a "for cause" audit. Moreover, states can already participate fully in federal "for cause" audits: The Commission has explicitly provided that state public utility commissions can trigger "for cause" audits. A state public utility commission merely needs to make a written request to the entity designated by the Commission to conduct audits in which the commission states the reason why a "for cause" audit is justified.[35] Therefore, states already have a protected role in the audit process without having to expend valuable resources to conduct the audits. Therefore, the

[35] *See Second Further Notice* at ¶ 87.

Commission should not permit state public utility commissions to conduct additional for cause audits.

Similarly, the Commission should not permit state public utility commissions to conduct random audits. Allowing state commissions to conduct random audits would subject carriers and operators with national coverage to the potential of fifty separate audits, each employing a different standard, not to mention any random audits conducted at the federal level. Therefore, permitting state commissions to conduct random audits increases the possibility of duplicative audits. These audits also would be extremely burdensome and costly both to the carrier or operator and the state public utility commissions without improving the efficiency with which carriers and operators utilize numbering resources. The Commission already has recognized that a system of regularly scheduled audits would be prohibitively expensive to the industry.[36] Giving states free reign to conduct their own random audits would similarly be prohibitively expensive to the industry, particularly because it would increase exponentially the chance that any given carrier or operator would be subjected to an audit during the course of a year. Carriers and operators would not be exposed to audits for pure local "political" reasons and to unnecessarily broad audits. It is unlikely that carriers and operators would have recourse to the Commission for relief from improperly motivated audits or abuses of scope. Given the potential for uneven practices, locale by locale, the Commission ought to retain its jurisdiction of audits.

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[36] *See id.* at ¶ 85.

VI. THE CURRENT LEVEL OF STATE ACCESS TO MANDATORY REPORTING DATA SHOULD BE MAINTAINED

In the *Second Further Notice*, the Commission tentatively concludes that states should have password-protected access to data carriers and operators report to the NANPA. The Commission also sought comment on whether the type of access NeuStar proposes is necessary, sufficient or whether the access already granted is sufficient to accommodate the states' requests.[37]

VoiceStream opposes the Commission's tentative conclusion and submits that states should not have password-protected access to the data submitted to NANPA. The Commission already has required NANPA to provide copies of the semi-annually reported forecast and utilization data to requesting states. Moreover, state public utility commissions are permitted to order the data in specific formats such that they can manipulate the data for their own use. Accordingly, there is no need for states to have access to the actual database storing the forecast and utilization information.

Allowing states to access the database itself – even in a password-protected format – would increase the risk to the security of competitively sensitive data. Under the current requirements, there is a risk that individual reports might be lost. Although this risk is significant, it is far less than the risk that a password which provides access to NANPA databases might be lost. This type of loss could go undetected and could cause competitive harm over a significant period of time. By contrast, the competitive harm due to a single lost report, although very serious, would diminish over time.

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[37] *See id.* at ¶ 151.

The potential harm that could result from the disclosure of disaggregated, carrier- or operator-specific data is significant and immediate. Wireless operators provide subscriber data in their SEC filings on an aggregated basis from the entire United States, not on a state-by-state or rate center-by-rate center basis. Information of this level of granularity is highly confidential, and is made available even within the companies on a highly confidential basis. Both current subscribership levels and trends in subscribership are valuable competitively, and are capable of influencing Wall Street and stock values. A carrier or operator could be irreparably harmed if such sensitive data falls into the hands of its competitors. Yet allowing states to access the database itself maximizes the risk of data being erroneously disseminated or incorrectly manipulated. Thus, the Commission should allow only NANPA to have access to the database and require state commissions to request the appropriate reports or data from NANPA.

VII. VOICESTREAM SUPPORTS THE COMMISSION'S EFFORTS TO ENCOURAGE FURTHER RATE CENTER CONSOLIDATION

VoiceStream welcomes the Commission's request for comment on the rate center problem and on what policies could be implemented at the federal level to reduce the extent to which the rate center system contributes to and/or accelerates numbering resource exhaust.[38] Without question, rate center consolidation is one of the most critical ways of achieving more efficient number utilization, because it directly addresses one of the main causes for stranded numbering resources. Unnecessarily small rate centers cause numbering resources to be stranded because a carrier or operator typically needs at least one NXX code – or 1,000 block for carriers or operators participating in pooling – in every rate center in which the carrier or operator

[38] *See id.* at ¶¶ 144-48.

provides service, even if the carrier or operator only serves a single customer in each rate center. The unused numbering resources in any given rate center remain stranded because NXXs – or 1,000 blocks in number pools – are associated with particular rate centers and cannot be ported across rate centers.

As the Commission and many state public utility commissions are aware, the potential benefits of rate center consolidation are impressive. For example, if the one hundred largest markets had fifteen new telecommunications carriers or operators in each market, and each of these markets consolidated rate centers from fifty-five to five (a reduction of fifty rate centers), there would be a total potential savings of ninety-four NPAs or 75,000 NXX codes. These potential benefits illustrate why rate center consolidation should be a key element of any numbering optimization plan and could significantly prolong the life of the NANP. However, rate center consolidation is most effective on a prospective basis, because many NXXs that might not have been issued if rate center consolidation had occurred before their assignment will be too contaminated to return if rate center consolidation occurs after they have been in use for some time.

Fortunately, rate center consolidation can be implemented on a relatively rapid basis. Texas, for example, was able to implement at least some measure of rate center consolidation within only four months of regulatory approval. Similarly, Minnesota consolidated 21 rate centers into a single rate center within six months of regulatory approval. Even though it may take longer to consolidate rate centers in some states, rate center consolidation can nonetheless be implemented rapidly.

VoiceStream urges the Commission to direct NANC and NANPA to work with carriers to analyze the benefits of rate center consolidation, by identifying, at a minimum, the

impact on the life expectancy of the NANP of consolidating all rate centers that are local to one another. This analysis should be completed on an MSA by MSA basis beginning with the top one hundred MSAs. After the top one hundred MSAs have been analyzed, then the remaining areas could be analyzed on a state-by-state basis. If the results of this analysis indicate that rate center consolidation will significantly prolong the life of the NANP, then the Commission should consider additional measures to encourage state public utility commissions and carriers and operators to consolidate rate centers to the greatest extent feasible.

CONCLUSION

For the foregoing reasons, VoiceStream urges the Commission to (1) permit states to implement transitional phased-in overlays in accordance with the proposal submitted by the Joint Wireless Commenters; (2) reduce the burdens on the Commission, state public utility commissions and carriers and operators by creating a safety valve that entitles carriers and operators with a three-month or less supply of numbering resources to be assigned additional numbering resources without regard to utilization rate; (3) rely on traditional enforcement measures rather than withholding codes from carriers and operators that violate the act or federal numbering policies; (4) reject proposals for "market-based" allocation of numbering resources; (5) retain sole authority to perform numbering audits at the federal level; (6) maintain the current level of state access to mandatory reporting data; and (7) create incentives for further rate center consolidation.

Respectfully submitted,

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February 14, 2001

CERTIFICATE OF SERVICE

I, Michelle L. Arbaugh, hereby certify that I have caused a copy of the foregoing "Comments of VoiceStream Wireless Corporation" to be served on this 14th day of February, 2001, via hand delivery, upon the following:

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