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

2001 FEB 23 P 3: 19

In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Petition of the Louisiana Public Service Commission for Expedited Decision for Additional Delegated Authority to Implement Numbering Conservation Measures	)	NSD File No. L-00-170
	)	
Petition of the Maryland Public Service Commission for Additional Delegated Authority to Implement Number Conservation Measures	)	NSD File No. L-00-171
	)	
Massachusetts Department of Telecommunications and Energy Petition for Delegation of Additional Authority to Implement Number Conservation Measures in Massachusetts	)	NSD File No. L-00-169
	)	
New Jersey Board of Public Utilities Petition for Delegated Authority to Implement Number Conservation Measures	)	NSD File No. L-00-95

ORDER

Adopted: February 13, 2001 **Released: February 14, 2001**

By the Deputy Chief, Common Carrier Bureau:

I. INTRODUCTION

1. This Order addresses the petitions for additional delegated authority to implement numbering resource optimization strategies filed by the Louisiana Public Service Commission (Louisiana Commission),[1] Maryland Public Service Commission (Maryland Commission),[2]

[1] *Petition of the Louisiana Public Service Commission for Expedited Decision for Additional Delegated Authority to Implement Numbering Conservation Measures*, filed July 27, 2000 (Louisiana Commission Petition).

Massachusetts Department of Telecommunications and Energy (Massachusetts Commission),[3] and New Jersey Board of Public Utilities (New Jersey Commission).[4]

2. In this Order, we conditionally grant the Louisiana, Maryland and Massachusetts Commissions the authority to institute thousands-block number pooling trials. We also conditionally grant the New Jersey Commission the authority to implement thousands-block number pooling trials in the 201 NPA. For New Jersey's 732 and 973 NPAs, we conditionally grant pooling authority after the New Jersey Commission implements area code relief in those areas. We conditionally grant the Louisiana, Maryland, Massachusetts and New Jersey Commissions the authority to maintain rationing procedures for six months following implementation of area code relief. We conditionally grant the Louisiana, Maryland and Massachusetts Commissions the authority to hear and address claims of carriers seeking numbering resources outside of the rationing process.

3. Many of the numbering resource optimization measures proposed by the state commissions were examined by the Federal Communications Commission (FCC) in the *Numbering Resource Optimization First Report and Order*, released on March 31, 2000,[5] and the *Numbering Resource Optimization Second Report and Order*, released on December 29, 2000 (collectively referred to as *Numbering Resource Optimization Orders*).[6] In the *Numbering Resource Optimization Orders*, the FCC adopted a number of administrative and technical measures that will allow it to monitor more closely the way numbering resources are used within the North American Numbering Plan (NANP) as well as promote more efficient use of NANP numbering resources. In the *Numbering Resource Optimization First Report and Order*, the FCC recognized that state commissions may be able to resolve certain issues more quickly and decisively than the industry through a consensus process. Thus, the FCC granted authority to state commissions to direct the North American

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[2] *Petition of the Maryland Public Service Commission for Additional Delegated Authority to Implement Number Conservation Measures*, filed August 14, 2000 (Maryland Commission Petition).

[3] *Massachusetts Department of Telecommunications and Energy Petition for Delegation of Additional Authority to Implement Number Conservation Measures in Massachusetts*, filed August 3, 2000 (Massachusetts Commission Petition). On September 15, 1999, the FCC delegated additional authority to the Massachusetts Commission to implement various number conservation measures in the 508, 617, 781 and 978 area codes. *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 (1999) (*Massachusetts Delegation Order*). Although the *Massachusetts Delegation Order* granted the Massachusetts Commission the authority to institute many of the optimization measures it requested in its petition, it did not grant the Massachusetts Commission the authority to implement number conservation measures on a state-wide basis. Thus, on August 3, 2000, the Massachusetts Commission filed a petition requesting additional authority to undertake various numbering conservation measures in Massachusetts on a statewide basis.

[4] *New Jersey Board of Public Utilities Petition for Delegated Authority to Implement Number Conservation Measures*, filed June 9, 2000 (New Jersey Commission Petition).

[5] *Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (2000) (*Numbering Resource Optimization First Report and Order*).

[6] *Numbering Resource Optimization*, Second Report and Order in CC Docket No. 99-200, Order on Reconsideration in CC Docket No. 96-98, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200 (rel. Dec. 29, 2000) (*Numbering Resource Optimization Second Report and Order*).

Numbering Plan Administrator (NANPA) to reclaim unactivated or unused NXX codes[7] and gave the same authority to the states to direct the Pooling Administrators 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.[8]

4. In the petitions under consideration in this Order, the state commissions request, among other measures, the authority to: (1) order the return of unused and reserved NXX codes;[9] (2) monitor the use of numbering resources through the use of mandatory reporting requirements and number utilization forecasting;[10] (3) require sequential number assignments;[11] and (4) set and establish number assignment and NXX code allocation standards (including the requirement that carriers meet certain fill rates prior to obtaining additional numbering resources).[12] Because the FCC, in the *Numbering Resource Optimization Orders*, has already addressed these specific issues, we dismiss these aspects of the state commissions' petitions as moot.

5. In the *Numbering Resource Optimization First Report and Order*, the FCC also reiterated that previous state delegations of authority to implement number conservation measures were interim in nature and would be superseded by forthcoming national numbering conservation strategies adopted in the *Numbering Resource Optimization* proceeding.[13] Although we grant the above state commissions interim authority to institute certain optimization measures in their petitions, this limited grant of delegated authority should not be construed as a prejudgment of any of the remaining numbering resource optimization measures on which the FCC has sought public comment in the *Numbering Resource Optimization* proceeding.[14] Moreover, the state commissions receiving new delegations of thousands-block number pooling authority in this Order must conform to the national framework as articulated in the FCC's *Numbering Resource Optimization Orders*.

II. BACKGROUND

6. Congress granted the FCC plenary jurisdiction over numbering issues.[15] Section

[7] *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7680, para. 237.

[8] *Id.* at 7681, para. 238.

[9] Louisiana Commission Petition at 9-11; Maryland Commission Petition at 5-6; Massachusetts Commission Petition at 13-14; New Jersey Commission Petition at 4.

[10] Maryland Commission Petition at 4-5; New Jersey Commission Petition at 4.

[11] Louisiana Commission Petition at 7-8; Maryland Commission Petition at 6; New Jersey Commission Petition at 4.

[12] Louisiana Commission Petition at 8-9; Maryland Commission Petition at 3-4; Massachusetts Commission Petition at 14-15; New Jersey Commission Petition at 4.

[13] *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7581.

[14] *Numbering Resource Optimization*, Notice of Proposed Rulemaking, 14 FCC Rcd 10322 (1999) (*Numbering Resource Optimization Notice*).

[15] 47 U.S.C. § 251(e).

251(e)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (1996 Act), also allows the FCC to delegate to state commissions or other entities all or any portion of its jurisdiction over numbering administration.[16] The FCC's regulations generally require that numbering administration: (1) facilitate entry into the telecommunications marketplace by making numbering resources available on an efficient and timely basis to telecommunications carriers; (2) not unduly favor or disfavor any particular industry segment or group of telecommunications consumers; and (3) not unduly favor one telecommunications technology over another.[17] Moreover, if the FCC delegates any telecommunications numbering administration functions to any state or other entity, the state or entity must perform those functions in a manner consistent with these general requirements.[18]

7. On September 28, 1998, the FCC released the *Pennsylvania Numbering Order* delegating authority to state commissions to order NXX code rationing in conjunction with area code relief decisions, in the absence of an industry consensus.[19] In that Order, the FCC also encouraged state commissions to seek further limited delegations of authority to implement number conservation measures.[20] In September 1999, the FCC addressed five petitions from state public utility commissions seeking delegations of authority to implement number conservation measures,[21] and in November 1999, the Common Carrier Bureau (Bureau) addressed five similar petitions from state public utility commissions.[22] Although these orders granted the state public utility commissions

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[16] *Id.* at § 251(e)(1).

[17] 47 C.F.R. § 52.9(a).

[18] *Id.* at § 52.9(b).

[19] *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*, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009, 19025 (1998) (*Pennsylvania Numbering Order*); *see also Numbering Resource Optimization Second Report and Order* at paras. 76-80 (where the FCC addressed petitions for clarification and reconsideration that were filed in response to the *Pennsylvania Numbering Order*).

[20] *Id.* at 19030.

[21] *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 (1999) (*California Delegation Order*); *Florida Public Service Commission Petition for Expedited Decision for Grant of Authority to Implement Number Conservation Measures*, Order, 14 FCC Rcd 17506 (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 (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 (1999) (*New York Delegation Order*); *Maine Public Utilities Commission Petition for Additional Delegated Authority to Implement Number Conservation Measures*, Order, 14 FCC Rcd 16440 (1999) (*Maine Delegation Order*).

[22] *See Connecticut Department of Public Utility Control Petition for Delegation of Additional Authority to Implement Area Code Conservation Measures*, Order, 15 FCC Rcd 1240 (1999) (*Connecticut Delegation Order*); *New Hampshire Public Utilities Commission's Petition for Additional Delegated Authority to Implement Number Optimization Measures in the 603 Area Code*, Order, 15 FCC Rcd 1252 (1999) (*New Hampshire Delegation Order*); *Petition of the Ohio Public Utilities Commission for Delegation of Additional Authority to Implement Number Conservation Measures*, Order, 15 FCC Rcd 1268 (1999) (*Ohio Delegation Order*); *Petition of the Public Utility Commission of Texas for Expedited Decision for Authority to Implement Number Conservation Measures*, (continued....)

interim authority to institute many of the optimization measures they requested in their petitions, they did so subject to the caveat that these grants would be superseded by forthcoming national number conservation measures adopted in the FCC's *Numbering Resource Optimization* proceeding.[23] In the *Numbering Resource Optimization First Report and Order*, the FCC continued its delegations to the Bureau to rule on state petitions for additional delegation of numbering authority when no new issues are raised.[24] As a result, on July 20, 2000, the Bureau released an order addressing fifteen state commissions' petitions for additional delegated authority.[25] Because the requests in the instant petitions raise no new issues, the Bureau exercises its delegated authority to address these petitions herein.

III. DISCUSSION

8. Numbering resource optimization measures are necessary to address the considerable burdens imposed on society by the inefficient use of numbers; thus, the FCC and the Bureau have enlisted the state public utility commissions to assist us in these efforts by delegating significant authority to them to implement certain numbering resource optimization measures within their local jurisdictions. Although we grant authority below to the state commissions to deploy various numbering resource optimization strategies in their states, we require the state commissions to abide by the same general requirements that the FCC and the Bureau have imposed on the other state commissions that have already received delegated authority to implement conservation measures. Thus, the state commissions, to the extent that they act under the authority delegated herein, must ensure that numbers are made available on an equitable basis; that numbering resources are made available on an efficient and timely basis; that whatever policies the state commissions institute with regard to numbering administration not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers; and that the state commissions not unduly favor one telecommunications technology over another.[26]

9. Although the FCC has not mandated rate center consolidation in its *Numbering Resource Optimization Orders*, we believe that rate center consolidation is an attractive numbering resource optimization measure because it enables carriers to use fewer NXX codes and thousands-blocks to provide service throughout a region, thereby reducing the demand for NXX codes and

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Order, 15 FCC Rcd 1285 (1999) (*Texas Delegation Order*); *Petition of the Public Service Commission of Wisconsin for Delegation of Additional Authority to Implement Number Conservation Measures*, Order, 15 FCC Rcd 1299 (1999) (*Wisconsin Delegation Order*).

[23] *See Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7581; *see also California Delegation Order*, 14 FCC Rcd at 17486; *Connecticut Delegation Order*, 15 FCC Rcd at 1240-41; *Florida Delegation Order*, 14 FCC Rcd at 17506; *Maine Delegation Order*, 14 FCC Rcd at 16440; *Massachusetts Delegation Order*, 14 FCC Rcd at 17447; *New Hampshire Delegation Order*, 15 FCC Rcd at 1252; *New York Delegation Order*, 14 FCC Rcd at 17468; *Ohio Delegation Order*, 15 FCC Rcd at 1268; *Texas Delegation Order*, 15 FCC Rcd at 1285; *Wisconsin Delegation Order*, 15 FCC Rcd at 1299.

[24] *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7651-52; *see also Pennsylvania Numbering Order*, 13 FCC Rcd at 19030-31.

[25] *Numbering Resource Optimization*, Order, 15 FCC Rcd 23371 (2000).

[26] *See* 47 C.F.R. § 52.9(a); *see also* 47 U.S.C. § 251(e)(1).

thousands-blocks, improving number utilization, and prolonging the life of an area code.[27] We strongly encourage the state commissions to proceed as expeditiously as possible to consolidate rate centers.

10. Several commenting parties urged the FCC to grant certain state commissions' petitions in their entirety on the basis that state utility commissions require greater authority to implement number conservation measures in order to rectify the causes of area code exhaust.[28] Other parties suggested that we deny certain petitions on the basis that number conservation measures must be developed at the national level, and that the petitions do not provide an adequate basis on which to grant the requested delegations of authority.[29]

11. The grants of authority herein are not intended to allow the state commissions to engage in number conservation measures to the exclusion of, or as a substitute for, unavoidable and timely area code relief.[30] Although we are giving the state commissions tools that may help to prolong the lives of existing area codes, the state commissions continue to bear the obligation of implementing area code relief when necessary, and we expect the state commissions to fulfill this obligation in a timely manner. Under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for 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. If the state commissions do not fulfill these obligations in a timely manner, we may be compelled to reconsider the authority being delegated to the states herein.

A. Thousands-Block Number Pooling Authority

12. Thousands-block number pooling involves the allocation of blocks of 1,000 sequential telephone numbers within the same central office code or NXX code[31] to different service providers. In the *Pennsylvania Numbering Order*, the FCC recognized that state number pooling trials could aid in developing national pooling implementation, architecture and administrative standards.[32] In the *Numbering Resource Optimization Notice*, the FCC concluded that thousands-block number pooling is

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[27] *Numbering Resource Optimization Second Report and Order* at para. 8; *see also* Allegiance Telecom Reply Comments (New Jersey Commission Petition) at 2 (discussing the value of rate center consolidation as an important number conservation measure).

[28] *See, e.g.*, Cablevision Lightpath, Inc. Comments (New Jersey Commission Petition) at 2; New Jersey Division of the Ratepayer Advocate Comments (New Jersey Commission Petition) at 2; Public Service Commission of Wisconsin Comments (New Jersey Commission Petition) at 2.

[29] *See, e.g.*, Sprint Opposition (New Jersey Commission Petition) at 7-8; United States Telecom Association Comments (New Jersey Commission Petition) at 1-4.

[30] *Pennsylvania Numbering Order*, 13 FCC Rcd at 19027.

[31] "Central office code" or "NXX code" refers to the second three digits (also called digits D-E-F) of a ten-digit telephone number in the form NPA-NXX-XXXX, where N represents any one of the numbers 2 through 9 and X represents any one of the numbers 0 through 9. 47 C.F.R. § 52.7(c).

[32] *Pennsylvania Numbering Order*, 13 FCC Rcd at 19027.

an important numbering resource optimization strategy, essential to extending the life of the NANP.[33] As a result, in prior state delegation orders, the FCC granted state public utility commissions the authority to implement thousands-block number pooling trials.[34]

1. General Delegation

13. Parties to the instant proceeding raise issues similar to those that the FCC addressed in its prior state delegation orders and in the *Numbering Resource Optimization Orders*. Because no new issues have been raised, the Bureau continues to exercise its delegated authority to grant state commissions authority to implement thousands-block number pooling trials. In so doing, we seek to ensure that the benefits of thousands-block number pooling are realized as soon as feasible.[35] Although the FCC's national thousands-block number pooling framework implements pooling on a numbering plan area (NPA) by NPA basis within the largest 100 Metropolitan Statistical Areas (MSAs),[36] we will continue to grant states interim authority to implement pooling on an MSA by MSA basis within their states. A state may expand pooling to another MSA only after having implemented thousands-block number pooling in the initial MSA and after allowing carriers sufficient time to undertake necessary steps to accommodate thousands-block number pooling, such as modifying databases and upgrading switch software.

14. As indicated in the *Numbering Resource Optimization First Report and Order*, and in the orders delegating thousands-block number pooling authority to state commissions, the national thousands-block number pooling framework, including the technical standards and pooling administration provisions, will supersede these interim delegations of authority to state commissions.[37] We reiterate that state commissions receiving new delegations of pooling authority in this Order must conform to the national framework as articulated in the *Numbering Resource Optimization First Report and Order*.[38]

15. We grant this authority subject to the conditions and safeguards enumerated by the FCC in the *Pennsylvania Numbering Order*, granting thousands-block number pooling authority to

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[33] *Numbering Resource Optimization Notice*, 14 FCC Rcd at 10383-84.

[34] *See, e.g., Numbering Resource Optimization*, Order, 15 FCC Rcd 23371 (2000).

[35] *Id.*

[36] MSAs are geographic areas designated by the Bureau of Census for purposes of collecting and analyzing data. The boundaries of MSAs are defined using statistics that are widely recognized as indications of metropolitan character. *See Policy and Rules Concerning Rates for Dominant Carriers*, Memorandum Opinion and Order, 12 FCC Rcd 8115, 8122 (1997). When implementing local number portability, the FCC established a phased implementation schedule based on MSAs. *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8394-95 (1996).

[37] *See, e.g., First Report and Order*, 15 FCC Rcd at 7651; *California Delegation Order*, 14 FCC Rcd at 17490-96; *Florida Delegation Order*, 14 FCC Rcd at 17510-16; *Maine Delegation Order*, 14 FCC Rcd at 16451-57; *Massachusetts Delegation Order*, 14 FCC Rcd at 17451-57; *New York Delegation Order*, 14 FCC Rcd at 17470-76.

[38] *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7651.

Illinois, and the *Numbering Resource Optimization First Report and Order*, which set forth the national thousands-block number pooling framework.[39] Thus, we require that the 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.[40] This criterion is not intended to require the state commissions to implement an NPA relief plan prior to initiating thousands-block number pooling. Rather, we require that the state commission be prepared to implement immediately a "back-up" NPA relief plan prior to the exhaustion of numbering resources.[41] Carriers should never be in the position of being unable to provide service to prospective customers because they do not have access to numbering resources. This criterion attempts to ensure that carriers continue to have numbering resources available to them in the event that the pooling trial does not stave off the need for area code relief.[42]

16. We also reiterate that only those carriers that have implemented permanent local number portability (LNP) shall be subject to state-mandated thousands-block number pooling trials.[43] At the present time, we do not grant the state commissions the authority to require a carrier to acquire LNP solely for the purpose of being able to participate in a thousands-block pooling trial. Wireline carriers outside the top 100 MSAs are only required to implement LNP if requested by another carrier subject to the requirements established by the FCC.[44] Within areas that are subject to a pooling trial, non-LNP capable carriers shall have the same access to numbering resources after pooling is implemented that they had prior to the implementation of a pooling regime; *i.e.*, non-LNP capable carriers shall continue to be able to obtain full NXX codes.[45]

17. We direct the state commissions to conduct their thousands-block number pooling trials in accordance with industry-adopted thousands-block number pooling guidelines to the extent that

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[39] *Pennsylvania Numbering Order*, 13 FCC Rcd at 19029-30.

[40] In Illinois, the Illinois Commission recognized that a "back-up plan" was necessary because the pooling solution had not been completely developed or tested. Thus, the Illinois Commission decided that an all-services overlay would supersede the pooling trial in the event that the NXXs in the 847 NPA were depleted.

[41] *See Petition by Citizens Utility Board to Implement a Form of Telephone Number Conservation Known as Number Pooling Within the 312, 773, 847, 630, and 708 Area Codes and Petition by Illinois Bell Telephone Company for Approval of an NPA Relief Plan for the 847 NPA*, Docket Nos. 97-0192 and 97-0211 (Consol.), Order (May 11, 1998) (establishing an area code overlay as a back-up plan concurrently with ordering thousands-block number pooling in the 847 NPA).

[42] We intend to closely monitor situations where states may not be developing and implementing area code relief plans in a timely manner. *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7652.

[43] Wireless carriers are not required to implement LNP until November 24, 2002. *See Cellular Telecommunications Industry Association's Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability*, Memorandum Opinion and Order, 14 FCC Rcd 3092, 3116 (1999).

[44] *See* 47 C.F.R. § 52.23(b)-(c).

[45] *California Delegation Order*, 14 FCC Rcd at 17493, para. 16.

the guidelines are not in conflict with the FCC's *Numbering Resource Optimization Orders*.[46] We also direct the state commissions to ensure that an adequate transition time is provided for carriers to implement thousands-block number pooling in their switches and administrative systems.

18. The FCC has determined that it will seek competitive bids for the selection of a national Pooling Administrator,[47] and that the term of the national Pooling Administrator will be five years.[48] In the interim, state commissions with thousands-block number pooling authority are responsible for thousands-block number pooling administration. This responsibility includes the selection of an interim thousands-block number Pooling Administrator to allocate thousands-blocks to carriers within the area in the state where a pooling trial is implemented pursuant to this Order. We note that the national thousands-block number pooling administration framework will supersede these interim delegations of authority to state commissions.[49]

2. Cost Recovery

19. Because the FCC's national cost recovery plan will not be in effect until after national thousands-block number pooling implementation occurs, states conducting their own pooling trials must develop their own cost recovery mechanisms for the joint and carrier-specific costs of implementing and administering pooling trials within their states. The individual state cost-recovery schemes, however, must transition to the national cost-recovery plan when the latter becomes effective.[50] The national cost recovery plan will become effective after national thousands-block number pooling is implemented.

20. In the *Numbering Resource Optimization First Report and Order*, the FCC concluded that thousands-block number pooling is a numbering administration function, and that section 251(e)(2) authorizes the FCC to provide the distribution and recovery mechanisms for the interstate and intrastate costs of number pooling.[51] In exercising the authority delegated to them, the state commissions must also ensure that costs of number pooling are recovered in a competitively neutral manner.[52] We note that the FCC determined in the *Numbering Resource Optimization First Report and Order* that section 251(e)(2) requires all carriers to bear the shared costs of number portability on a competitively neutral basis, and, thus, established a cost recovery mechanism that does not exclude any class of carrier.[53]

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[46] Thousand Block (NXX-X) Pooling Administration Guidelines, Draft (INC 99-0127-023) (rev. June 2000). This document is available at <http://www.atis.org>.

[47] *See Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7639-40. The competitive bidding process is currently under way.

[48] *Numbering Resource Optimization Second Report and Order* at para. 39.

[49] *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7651, para. 169.

[50] *See Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7652.

[51] *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7663-64.

[52] 47 U.S.C. § 251(e)(2).

[53] *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7665.

We encourage the state commissions to consider the *Numbering Resource Optimization First Report and Order* and *Telephone Number Portability Order* for guidance regarding the criteria with which a cost recovery mechanism must comply in order to be considered competitively neutral:

> First, "a 'competitively neutral' cost recovery mechanism should not give one service provider an appreciable, incremental cost advantage over another service provider, when competing for a specific subscriber." Second, the cost recovery mechanism "should not have a disparate effect on the ability of competing service providers to earn normal returns on their investments."[54]

21. Consistent with the FCC's treatment of cost recovery in the *Telephone Number Portability* proceeding and *Numbering Resource Optimization First Report and Order*, we believe that even those carriers that cannot participate in thousands-block number pooling at this time will benefit from the more efficient use of numbering resources that pooling will facilitate and thus should share in bearing the costs associated with thousands-block number pooling. We encourage the state commissions to consider the "road map" provided by the FCC in the *Numbering Resource Optimization First Report and Order* regarding cost recovery for thousands-block number pooling.[55]

3. Individual Petitions for Thousands-Block Number Pooling Authority

22. To ensure that thousands-block number pooling is implemented in areas where it has the potential to be most beneficial, the FCC requires state commissions to demonstrate that certain conditions are satisfied in their states before thousands-block number pooling authority could be delegated to them.[56] In the *Numbering Resource Optimization First Report and Order*, the FCC directed state commissions seeking thousands-block number pooling authority to demonstrate that: 1) an NPA in its state is in jeopardy; 2) the NPA in question has a remaining life span of at least a year; and 3) that the NPA is in one of the largest 100 MSAs, or alternatively, the majority of wireline carriers in the NPA are LNP-capable.[57] The FCC recognized, however, that there may be "special circumstances" in which pooling would be beneficial in NPAs that do not meet all of the above criteria, and stated that we may authorize pooling in such an NPA upon a satisfactory showing by the state commission of such special circumstances.[58]

a. Louisiana Commission

23. The Louisiana Commission requests authority to implement thousands-block number

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[54] *Telephone Number Portability*, Fourth Memorandum Opinion and Order on Reconsideration, CC Docket No. 95-116, RM 8535, FCC 99-151, at para. 32 (rel. July 16, 1999) (citing *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8420-21 (1996)); *see also Number Resource Optimization First Report and Order*, 15 FCC Rcd at 7665.

[55] *Numbering Resource Optimization Notice*, 14 FCC Rcd at 10405-12.

[56] *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7652.

[57] *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7652.

[58] *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7652.

pooling in the 504 NPA.[59] Based upon the information in the record, we delegate to the Louisiana Commission the authority to implement a thousands-block number pooling trial in the 504 NPA. The Louisiana Commission's filing demonstrates that the 504 NPA meets the three specific criteria articulated in the *Numbering Resource Optimization First Report and Order*: (1) the 504 NPA is in jeopardy; (2) the 504 NPA has a remaining life span of at least a year; and (3) the 504 NPA encompasses the City of New Orleans, one of the largest 100 MSAs.[60] We grant this authority to the Louisiana Commission subject to the conditions and safeguards set forth above. This grant of thousands-block number pooling authority extends to any new area code implemented to relieve an existing area code in which pooling is taking place.

24. The Louisiana Commission also requests that the 504 NPA, any NPA implemented to relieve the 504 NPA, and other NPAs in the state, be included in the national thousands-block number pooling implementation schedule.[61] In the *Numbering Resource Optimization First Report and Order*, the FCC concluded that the national thousands-block number pooling rollout would first include NPAs that are pooled or scheduled to be pooled by state commissions.[62] Thus, Louisiana NPAs that are pooled or slated to be pooled should be scheduled for transition early in the national pooling rollout schedule.

b. Maryland Commission

25. The Maryland Commission requests the authority to implement thousands-block number pooling in two Maryland area codes: the 443 and 240 NPAs.[63] Based upon the information in the record, we delegate to the Maryland Commission the authority to implement a thousands-block number pooling trial in the 443 NPA. The Maryland Commission's petition demonstrates that the 443 NPA meets the three specific criteria articulated in the *Numbering Resource Optimization Order*: (1) the 443 NPA is in jeopardy; (2) the 443 NPA has a remaining life span of at least a year; and (3) the 443 NPA encompasses one of the largest 100 MSAs.[64] We grant this authority to the Maryland Commission subject to the conditions and safeguards set forth above. This grant of thousands-block number pooling authority extends to any new area code implemented to relieve an existing area code in which pooling is taking place.

26. We also grant the Maryland Commission's request to implement thousands-block number pooling in the 240 NPA. According to the Maryland Commission, the 240 NPA is in jeopardy and has a remaining life span of at least a year.[65] Additionally, data from the Local Exchange Routing

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[59] Louisiana Commission Petition at 5.

[60] Louisiana Commission Petition at 5.

[61] Louisiana Commission Petition at 2.

[62] *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7647, para. 161-62.

[63] Maryland Commission Petition at 3.

[64] Maryland Commission Petition at 2.

[65] Maryland Commission Petition at 3.

Guide (LERG) indicates that a majority of the wireline carriers operating in the 240 NPA are LNP-capable.[66] As with the 443 NPA, this grant of thousands-block number pooling authority extends to any new area code implemented to relieve an existing area code in which pooling is taking place.

c. Massachusetts Commission

27. The Massachusetts Commission requests the authority to implement thousands-block number pooling in those areas of Massachusetts for which authority was not granted in the *Massachusetts Delegation Order*.[67] The Massachusetts Commission included information in its petition concerning the 413 NPA.[68] Based upon the information in the record, we delegate to the Massachusetts Commission the authority to implement a thousands-block number pooling trial in the 413 NPA. The Massachusetts Commission informs us that, although the 413 NPA has a remaining life span of at least a year and is in one of the largest 100 MSAs, it is not currently in jeopardy.[69] The Massachusetts Commission, nevertheless, believes that "special circumstances" exist which warrant FCC authorization to implement thousands-block number pooling in western Massachusetts. The Massachusetts Commission states that the particular circumstances surrounding the consumption of numbering resources in Massachusetts, the state's history of rapid depletion forcing repeated area code relief activity in the recent past, as well as the prior delegation of authority to the Massachusetts Commission to conduct interim pooling in NPAs which will soon be overlaid with relief codes, provide a satisfactory showing of "special circumstances."[70] We agree with the Massachusetts Commission that thousands-block number pooling could postpone the need for area code relief in the 413 NPA, and therefore grant the Massachusetts Commission the authority to implement a thousands-block number pooling trial in the 413 NPA. We grant this authority to the Massachusetts Commission subject to the conditions and safeguards set forth above. Although the 413 NPA is not currently in jeopardy, the Massachusetts Commission must take all necessary steps to establish an area code relief plan for the 413 NPA once numbering resources in the 413 NPA are in imminent danger of being exhausted. This grant of thousands-block number pooling authority extends to any new area codes implemented to relieve an existing area code in which pooling is taking place in Massachusetts.

d. New Jersey Commission

28. The New Jersey Commission requests the authority to implement thousands-block number pooling to improve the efficiency of number utilization in New Jersey.[71] The New Jersey Commission's petition includes information concerning three New Jersey area codes: the 201, 732 and

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[66] *See* Traffic Routing Administration, *Local Exchange Routing Guide* (updated Jan. 2001) (LERG).

[67] *Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in 508, 617, 781 and 978 Area Codes*, Order, CC Docket No. 99-200, 14 FCC Rcd 17447 (1999) (*Massachusetts Delegation Order*).

[68] Massachusetts Commission Petition at 12-13.

[69] Massachusetts Commission Petition at 12.

[70] Massachusetts Commission Petition at 12-13.

[71] New Jersey Commission Petition at 2.

973 NPAs.[72] Based upon the information in the record, we delegate to the New Jersey Commission the authority to implement thousands-block number pooling in the 201 NPA. The New Jersey Commission's petition demonstrates that the 201 NPA meets the three specific criteria articulated in the *Numbering Resource Optimization First Report and Order*: (1) the 201 NPA is in jeopardy; (2) the 201 NPA has a remaining life span of at least a year; and (3) the 201 NPA encompasses one of the largest 100 MSAs.[73] We grant this authority to the New Jersey Commission subject to the conditions and safeguards set forth above. This grant of thousands-block number pooling authority extends to any new area code implemented to relieve an existing area code in which pooling is taking place.

29. We also conditionally grant the New Jersey Commission's request to implement thousands-block number pooling in the 732 and 973 NPAs. Prior to implementing pooling in the 732 and 973 NPAs, however, the New Jersey Commission must fully implement area code relief in those NPAs. The 732 and 973 NPAs are in jeopardy and are among the largest 100 MSAs,[74] but the NANPA data indicates that the 732 and 973 NPAs do not have a remaining life span of at least a year.[75] The New Jersey Commission contends that "special circumstances" exist in the 732 and 973 NPAs that warrant granting its request for thousands-block number pooling authority.[76] In particular, the New Jersey Commission asserts that several one thousand-blocks in the 732 and 973 NPAs have a contamination level of far less than 10% and thus, are available for pooling.[77]

30. We believe that pooling can be utilized to make more efficient use of numbering resources in the 732 and 973 NPAs. However, a number of carriers have raised concerns that the New Jersey Commission may not be implementing area code relief in a timely manner.[78] In addition, despite the number of thousands-blocks with low contamination levels that are available for pooling in these NPAs, the New Jersey Commission must still be able to ensure numbering resources for non-LNP capable carriers. It is the availability of central office codes or NXX codes, not thousands-blocks, that determines when area code relief is necessary. Even in a pooling environment, without available NXX codes, non-LNP capable carriers are precluded from getting numbering resources. Thus, because these area codes do not have an estimated life of at least one year,[79] the New Jersey Commission must

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[72] New Jersey Commission Petition at 3.

[73] New Jersey Commission Petition at 3.

[74] New Jersey Commission Petition at 3.

[75] The most recent projected exhaust date for the 732 NPA was in the fourth quarter of 2000. *See* COCUS and NPA Exhaust Analysis (updated May 23, 2000), *available at* <http://www.nanpa.com>. The most recent projected exhaust date for the 973 NPA is in the first quarter of 2001. *Id.*

[76] New Jersey Commission Petition at 3.

[77] According to the New Jersey Commission, a usage survey demonstrates that nineteen wireline companies possess 1,843 one thousand-number blocks in the 732 NPA and 1,770 one thousand-number blocks in the 973 NPA. *See* Letter from Grace Kurdian, Deputy Attorney General, to Magalie Roman Salas, FCC, dated June 14, 2000.

[78] Sprint Opposition (New Jersey Commission Petition) at 4-7; Verizon Wireless Comments (New Jersey Commission Petition) at 2-8.

[79] *See supra* note 75.

implement area code relief before implementing pooling in the 732 and 973 NPAs. This grant of thousands-block number pooling authority extends to the new area code(s) implemented to relieve the 732 and 973 area codes in which pooling is taking place.

B. Hear and Address Claims of Carriers Outside of the Area Code Rationing Process

31. The Louisiana, Maryland and Massachusetts Commissions seek authority to respond to requests from individual carriers seeking to obtain NXX codes outside of the rationing process.[80] In prior orders, the FCC has granted state commissions the authority to hear and address such claims from carriers seeking NXX codes outside of the rationing process.[81] Based on FCC precedent, we grant the Louisiana, Maryland and Massachusetts Commissions the authority to hear and address such claims. We conclude that such delegation will provide the Louisiana, Maryland and Massachusetts Commissions with sufficient authority to ensure that customers in their states retain their choice of service providers.

32. If requested, the Louisiana, Maryland and Massachusetts Commissions may hear and address claims of carriers stating that they do not, or in the near future will not, have any numbering resources remaining in their inventory of numbers, and will be unable to serve customers if they cannot obtain additional numbering resources, or that they are using or will have to use extraordinary and unreasonably costly measures to provide service.[82] This grant of authority further empowers the Louisiana, Maryland and Massachusetts Commissions to direct the NANPA to assign an NXX code to a carrier outside the rationing plan currently in place in an area code, based on a determination that such relief is necessary. We also grant the Louisiana, Maryland and Massachusetts Commissions the authority to request whatever information they deem necessary to evaluate a carrier's request for additional numbering resources outside the rationing process. This information may include the carrier's business plan, customer requests for new service that the carrier has denied because of its lack of numbering resources, historical information on the carrier's growth rate, and information on any extraordinary steps the carrier is taking to provide service.[83] Further, although we delegate to the Louisiana, Maryland and Massachusetts Commissions the authority to request and evaluate this information, such information shall be deemed confidential and shall not be released to any entity other than the NANPA, other state government agencies, the FCC, or the Bureau without the concurrence of the carrier submitting such information.[84] This grant of authority empowers the Louisiana, Maryland and Massachusetts Commissions to ensure that carriers in dire need of numbering resources can obtain the numbering resources necessary to continue to provide service to their prospective customers, if the rationing plan will not ensure that the carrier will have adequate and timely access to numbering

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[80] Louisiana Commission Petition at 12; Maryland Commission Petition at 6; Massachusetts Commission Petition at 17-18.

[81] *See, e.g., California Delegation Order*, 14 FCC Rcd at 17500-01; *Massachusetts Delegation Order*, 14 FCC Rcd at 17462-63.

[82] *Pennsylvania Numbering Order*, 13 FCC Rcd at 19039.

[83] *Id.*

[84] *See Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7605-09.

resources.

C. Maintenance of Rationing Procedures for Six Months Following Area Code Relief

33. All of the state commissions request the authority to maintain pre-NPA relief NXX code rationing measures for six months following implementation of area code relief.[85] In prior orders, the Commission granted similar authority to state public utility commissions.[86] The Commission reasoned that a continuation of rationing after area code relief neither contradicts the *Pennsylvania Numbering Order*,[87] 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. Based on FCC precedent, we grant the Louisiana, Maryland, Massachusetts and New Jersey Commissions the authority to order continuation of a rationing plan for six months following implementation of area code relief.

34. Where area code relief takes the form of an area code split, we grant the Louisiana, Maryland, Massachusetts and New Jersey Commissions 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.[88] Correspondingly, if the area code relief is in the form of an all-services overlay, the Louisiana, Maryland, Massachusetts and New Jersey Commissions may direct that the pre-existing rationing plan be applied to each area code (overlay code and 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 Louisiana, Maryland, Massachusetts and New Jersey 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 find 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.

D. Additional NXX Code Rationing Authority

35. The Maryland Commission also requests the authority to order rationing as an area

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[85] Louisiana Commission Petition at 11-12; Maryland Commission Petition at 4; Massachusetts Commission Petition at 18; New Jersey Commission Petition at 4.

[86] *See, e.g.*, *Florida Delegation Order*, 14 FCC Rcd at 17517-18; *Massachusetts Delegation Order*, 14 FCC Rcd at 17458-59; *Wisconsin Delegation Order*, 15 FCC Rcd at 1310-11.

[87] 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." *See Pennsylvania Numbering Order*, 13 FCC Rcd at 19027.

[88] The "NPA relief date" is defined in the NPA Code Relief Planning and Notification Guidelines as the date by which the NPA is introduced and routing of normal commercial traffic begins. NPA Code Relief Planning and Notification Guidelines at 14.0.

code nears jeopardy.[89] The Massachusetts Commission has sought the authority to set and/or revise rationing procedures.[90] The Maryland and Massachusetts Commissions may currently order and revise rationing processes where they have ordered area code relief and established a relief date, and the industry has been unable to reach consensus on a rationing plan.[91] As determined in the *Pennsylvania Numbering Order*, however, 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.[92] In prior orders, the Commission and Bureau have 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.[93] Further, state commissions may not use rationing as a substitute for area code relief.[94] Because the Maryland and Massachusetts Commissions are requesting authority to adopt rationing measurers prior to having decided on a specific plan for area code relief, absent a demonstration of such extreme circumstances, we decline to reach this aspect of the state commissions' petitions. We believe that the authority we are herein granting to the Maryland and Massachusetts Commissions, and the authority the FCC granted the state commission in the *Numbering Resource Optimization Orders* to implement other relief measures, will provide them with the tools they need to address inefficiencies in number use in Maryland and Massachusetts.

IV. CONCLUSION AND ORDERING CLAUSES

36. We are mindful of the costs, confusion, and inconvenience that frequent area code changes can impose on consumers. The authority we have herein delegated to the above state commissions, we hope, will provide them the tools they need to address their states' concerns about numbering resource exhaust. Specifically, the authority to order thousands-block number pooling trials allows a state commission to address inefficiencies on the supply side of the telephone number assignment regime by ordering that LNP-capable carriers receive smaller blocks of numbers than they now do. In addition, the authority to hear and address claims from carriers seeking NXX codes outside of the rationing process empowers the state commissions to ensure that carriers in dire need of numbering resources can obtain the numbering resources necessary to continue to provide service to their prospective customers. We are encouraged by these states' willingness to work in conjunction

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[89] Maryland Commission Petition at 4.

[90] Massachusetts Commission Petition at 15-17.

[91] *See Pennsylvania Numbering Order*, 13 FCC Rcd at 19026.

[92] *Pennsylvania Numbering Order*, 13 FCC Rcd at 19025. In the *Numbering Resource Optimization Second Report and Order*, the FCC reaffirmed its commitment to the guidelines enumerated in the *Pennsylvania Numbering Order* regarding the rationing of NXX codes. *Numbering Resource Optimization Second Report and Order* at paras. 61, 78.

[93] *See, e.g.*, *Numbering Resource Optimization Second Report and Order* at para. 61; *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).

[94] *Pennsylvania Numbering Order*, 13 FCC Rcd at 19027.

with the FCC to achieve our numbering resource optimization goals.

37. Accordingly, pursuant to sections 1, 4(i), and 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 251, and pursuant to sections 0.91, 0.291, 1.1 and 52.9(b) of the Commission's Rules, 47 C.F.R. §§ 0.91, 0.291, 1.1 and 52.9(b), IT IS ORDERED that the Petition of the Louisiana Public Service Commission for Expedited Decision for Delegated Authority to Implement Numbering Conservation Measures is GRANTED IN PART to the extent described herein; Petition of the Maryland Public Service Commission for Additional Delegated Authority to Implement Number Conservation Measures is GRANTED IN PART and DENIED IN PART to the extent described herein; the Massachusetts Department of Telecommunications and Energy Petition for Delegation of Additional Authority to Implement Number Conservation Measures in Massachusetts is GRANTED IN PART and DENIED IN PART to the extent described herein; and the New Jersey Board of Public Utilities Petition for Delegated Authority to Implement Number Conservation Measures is GRANTED IN PART to the extent described herein.

FEDERAL COMMUNICATIONS COMMISSION

Yog R. Varma
Deputy Chief, Common Carrier Bureau