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March 7, 2001

VIA ELECTRONIC COMMENT FILING SYSTEM

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A 325
Washington, DC 20554

Re: Numbering Resource Optimization, CC Docket No. 99-200

Dear Ms. Salas:

Enclosed for filing in the above referenced proceeding is an Errata to the Reply Comments of the Ad Hoc Telecommunications Users Committee. The Ad Hoc Committee filed its Reply Comments on March 5, 2001 but subsequently discovered that the document required certain non-substantive corrections to a few typographical errors, omissions or incorrect citations. The accompanying Errata contain these corrections but is otherwise identical to the Reply Comments of Ad Hoc filed on March 5, 2001.

Specifically, the Errata corrects typographical errors, omissions or misplaced citations located on the following pages: in the header, pages i-v; page 12 at footnote 31; page 17 at footnote 42; page 23 at footnote 55 and 56; page 24 at footnote 58; page 27 at footnote 65; page 36 at footnote 98; and in the text on page 38. The attached Errata have corrected these mistakes.

If you have any questions or concerns, please do not hesitate to contact me at (202) 857-2550.

Respectfully submitted,

Andrew M. Brown

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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

ERRATA TO
REPLY COMMENTS OF THE
AD HOC TELECOMMUNICATIONS USERS COMMITTEE

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March 7, 2001

SUMMARY

Service-Specific and Technology-Specific Overlays: A wide variety of commenting parties have indicated that the urgency of the numbering crisis warrants elimination of the Commission's prohibition of service- and technology-specific overlays on a permanent basis. Use of service- or technology-specific area codes will increase the supply of numbers and therefore increase the lifespan of an existing area code. Permitting only "transitional" service- and technology-specific area codes would fail to increase the lifespan of an existing area code because transitional codes simply permit certain carriers to transition into a new area code (with sufficient numbering resources) from an area code facing exhaustion, while other carriers are "left behind" in the jeopardized area code until such time as the code actually exhausts. The establishment of permanent service- or technology-specific codes that cover more than one pre-existing area code, coupled with a "take back" of numbers from the carriers that are placed into the new technology or service specific code, will provide the best number conservation results.

The Rate Center Problem: The consolidation of rate centers will have the single most direct and effective impact on reducing carriers' demand for numbering resources. By consolidating rate centers, carriers will require fewer NXX codes to provide service over any given geographic region. There is broad support for rate

center consolidation from a wide range of commenting parties that recognize the rate center structure as an anachronism that no longer reflects the realities of non-distance sensitive pricing of phone service.

Some commenters have expressed concern that rate center consolidation will require untenable rate increases on consumers' local bills, resulting from the reduction or loss of intraLATA toll and switched access revenue generated by the incumbent local exchange carrier. Such concern, however, is based on several false premises. First, there is, no requirement that rate center consolidation be revenue-neutral and that the ILECs be permitted to collect every dollar lost from the consolidation of rater centers. Second, even if revenue-neutral rate adjustments are allowed, the increase in basic monthly rates will most likely be equal to the decrease in average per-line intraLATA toll revenues lost by the incumbent LEC. Thus, for the average customer, RCC will have no impact on his/her monthly service because savings on intraLATA toll will be realized. Some customers' rates may, in fact, decrease. Third, depending on how and to what extent rate center consolidation is enacted, the amount of intraLATA toll and switched access revenue that many parties (perhaps incorrectly) assume must be recovered will vary significantly. The most aggressive estimates of $2.7 billion per year of revenue pales in comparison to the anticipated $50-150 billion cost of NANP exhaustion that is likely to occur if some form of rate center consolidation is not enacted.

Prior to dismissing rate center consolidation out of hand, states must evaluate specific options and analyze the calling patterns and behavior of the affected customers. Thus far, few states have undertaken such action. Ad Hoc urges the Commission to adopt a federal policy that establishes an NPA-utilization rate, which would require a demonstration by all carriers that numbers are being utilized to a fixed percentage prior to a jurisdiction receiving additional NPA codes for area code relief. Such a policy will provide incentives to state public utility commissions to implement rate center consolidation plans appropriate for their jurisdictions, an action that in turn will improve number resource utilization and dramatically reduce the demand for numbers by carriers, forestalling the assignment of new area codes.

Fee for Number Reservations: The Commission should dismiss the NANC's proposal to charge a fee for reserving numbers because such a policy would have little or no effect on the conservation of numbering resources. Furthermore, carriers have legitimate business reasons for reserving numbers that a fee-based system would make substantially more expensive. While Ad Hoc supports the adoption of a 180 day period for reserved numbers, carriers should be permitted to extend such reservations on a month-to-month basis at the specific request of an end user if business needs require.

***Developing Market-Based Approaches for Optimizing Numbering Resources*:** Ad Hoc joins the many commenters in this proceeding who urge the

Commission to dismiss any further attempt at developing a market-based allocation system for numbers. The Commission does not appear to have the authority to implement a number pricing scheme, particularly one involving auctions. Moreover, no evidence has been presented to demonstrate that a viable system for establishing the economic value of numbers exists or can be devised, or, even if developed, would have any effect on reducing carrier demand for numbers. In addition, such a system could create competitive disadvantages for CLECs with limited resources. The Commission should continue to support the policy initiatives addressed thus far in this docket, and continue to pursue more aggressive number conservation measures that are known to have an impact on preventing exhaust of the NANP.

Recovery of Shared Industry and Direct Carrier-Specific Pooling Costs: The Commission should reject any proposals establishing a mechanism for the recovery of "direct" costs associated with thousands-block pooling. The incremental costs of implementing thousands-block pooling are less than the costs associated with continuing current area code "relief" practices or the expansion of the NANP. Despite repeated Commission requests, the carriers have so far failed to submit reliable and verifiable cost studies justifying the costs associated with thousand block pooling. Furthermore, the carriers unsupported estimates of pooling costs fail to take into account the significant cost savings that result from delaying the introduction of new NPAs. The costs associated with number pooling are simply costs of doing business,

not exogenous costs that the carriers are entitled to recover through the number portability surcharge.

Thousands-block Pooling for Non-LNP-Capable Carriers: The inclusion of Non-LNP capable carriers in thousand block pooling would significantly decrease the current demand for NXX codes across the country. As many state commissions have stated in their comments, inclusion of Non-LNP Carriers in their pooling activities, as well as expanding number pooling beyond the 100 largest MSAs, would significantly enhance their number conservation efforts and add to the success thousands-block pooling has demonstrated in slowing the exhaustion of numbering resources. Partial participation, however, minimizes the effectiveness of the pooling and prevents full realization of its benefits. Therefore, the Commission should permit states to determine whether all carriers must participate and which exemptions from participation in pooling, if any, should be granted.

"Safety Valves" Will Ensure That Carriers Maintain Adequate Number Resources To Serve Large End Users: Ad Hoc supports the adoption of "safety valves" that would permit state commissions to allow case by case departures from rate center-based utilization thresholds. The Commission should adopt a flexible policy that provides discretion to the states to employ safety valves which will ensure that carriers are not discouraged from expanding or from employing multiple switches within a rate center.

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ERRATA TO
REPLY COMMENTS OF THE
AD HOC TELECOMMUNICATIONS USERS COMMITTEE

The Ad Hoc Telecommunications Users Committee ("Ad Hoc" or the "Committee") hereby submits its reply comments in response to the Commission's December 29, 2000 *Second Further Notice of Proposed Rulemaking* ("*Second Further Notice*") in the above-captioned proceeding.[1]

I. THE COMMISSION SHOULD ALLOW STATES TO IMPLEMENT PERMANENT, RATHER THAN TRANSITIONAL, SERVICE- AND TECHNOLOGY SPECIFIC OVERLAYS.

Many commenters, including Ad Hoc, support the Commission's proposal to revisit the prohibition on service-specific and/or technology-specific overlays and permit

[1] *Numbering Resource Optimization*, CC Docket No. 99-200, Second Report and Order and Second

state commissions to implement this number conservation measure on a permanent, rather than transitional, basis.[2]

Like Ad Hoc, the State Group is "disappointed that the only form of technology-specific overlay the FCC seems prepared to consider is the 'transitional overlay' proposed by the wireless industry."[3] Ad Hoc agrees with the State Group's conclusion that transitional technology-specific overlays are undesirable because (1) they do not provide adequate and necessary numbering relief; and (2) they impose mandatory 10-digit dialing.[4]

For the most part, the only opposition to the use of technology-specific overlays, either permanently or on a transitional basis, comes from the wireless industry. For example, VoiceStream supports transitional overlays, to allow the adequate assignment of numbering resources to carriers in need but suggests that transitional overlays should only be used when state PUCs are unable to implement all-service overlays or geographic splits fast enough to prevent NXX exhaust.[5]

Further Notice of Proposed Rulemaking, FCC 00-429 (2000) ("Second Further Notice").

[2] Comments of Ohio Public Utilities Commission on Second Report and Order in CC Docket No. 99-200 (filed February 12, 2001) ("Ohio PUC") at 5; Comments of Florida Public Services Commission on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("Florida PSC") at 5; Comments of New Hampshire Public Utilities Commission on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("New Hampshire PUC") at 5; Comments of Texas Public Utilities Commission on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("Texas PUC") at 6-8; Comments of Illinois Commission on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("Illinois PUC") at 4; Comments of Nevada Public Utilities Commission on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("Nevada PUC") at 5.

[3] Comments of State Coordination Group outline on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("State Group") at 1.

[4] Comments of State Group at 1.

[5] Comments of Voicestream Wireless on Second Report and Order in CC Docket No. 99-200 (filed

Verizon and Qwest argue that nothing in the record shows that there is any reason to adopt service or technology-specific overlays or that these types of overlays would further numbering optimization efforts.[6] Ad Hoc disagrees. Service- and technology-specific overlays will permit all carriers to utilize number resources more efficiently, and will noticeably slow the speed at which area code relief must be implemented.

A. The Commission should revisit its finding that technology-specific overlays are anticompetitive.

Several commenters agree with Ad Hoc that the anticompetitive effects of a technology-specific overlay on wireless carriers is unfounded and that the prohibition of such overlays has harmed competitive local exchange carriers. There is, in contrast, little evidence that wireless carriers are harmed by technology-specific overlays.[7]

The National Association of State Utility Consumer Advocates also questions the existence of anticompetitive effects from technology-specific overlays and argues that wireless service providers furnish service in different markets with different local calling areas and rate structures than do wireline LECs. Furthermore, there is no current

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February 14, 2001) ("Voicestream") at 2.

[6] Comments of Verizon on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("Verizon") at 6; Comments of Qwest Corporation on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("Qwest") at 11-12.

[7] Comments of New York State Department of Public Service on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("New York DPS") at 2 (noting that "[t]here is no evidence that competitive inequities would result from a technology-specific overlay."). As the NYDPS further notes, "The 917 wireless overlay in New York City certainly has not impeded the wireless industry from growing by leaps and bounds over the last 10 years." *Id.*

evidence to support the contention that wireless and wireline service providers are or will become head-to-head competitors.[8] Additionally, NASUCA agrees with Ad Hoc's position that all-services overlays should be considered anticompetitive towards CLECs because these carriers are disproportionately assigned numbers from the new overlay code, while incumbent LECs retain significant numbering resources in the original code. The so-called "all-services overlays" in practice become essentially CLEC-specific overlays, because the overwhelming majority of NXX codes in the "all-services overlay" are ultimately assigned to CLECs.[9] Unlike wireless carriers, CLECs *are* in head-to-head competition with ILECs, such that the *de facto* ghettoization of CLECs into the new and unfamiliar area code places them at a considerable competitive disadvantage. The Commission should weigh the asserted but largely undemonstrated "competitive disadvantages" that service- or technology-specific overlays would supposedly place upon wireless carriers against the demonstrable disadvantages that the *de facto* creation of CLEC-specific overlays (in the name of "all services" overlays) continues to impose upon new wireline entrants. By adopting technology-specific overlays, the Commission could mitigate this major advantage given to ILECs.[10]

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[8] Comments of National Association of State Utility Consumer Advocates on Second Report and Order in CC Docket No. 99-200 ("NASUCA") at 6-7.

[9] Comments of Ad Hoc Telecommunications Users Committee on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("Ad Hoc") at 10, Table 1.

[10] Comments of NASUCA at 9.

B. Non-LNP capable carriers should be placed in technology-specific overlays.

Ad Hoc supports the Commission's proposal to place all non-LNP capable carriers into technology-specific overlays.[11] Distinguishing between carriers on the basis of LNP capability is the most appropriate, competitively neutral mechanism to use in the assignment of carriers to such an overlay. Commenters have generally supported placing non-geographic based services, paging companies, and wireless providers in technology-specific overlays. Commenters who support these overlays also generally support including non-geographic based carriers and non-LNP capable carriers in a technology-specific overlay.[12]

Thousands-block number pooling is most successful when all carriers holding numbers in a given area code are able to participate. From a numbering optimization perspective, those carriers that will not be able to participate in number pooling should be placed in a separate area code to maximize the life of the original area code. However, Ad Hoc recognizes the fact that state commissions are in a much better position to evaluate the specific conditions in an NPA within their state territory. Therefore, Ad Hoc proposes that the Commission provide broad authorization to state commissions to implement service- or technology-specific overlays and permit the states to determine how these types of overlays should be used to maximize numbering

[11] Comments of Ad Hoc at 7.

[12] Comments of Illinois Commerce Commission on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("ICC") at 5; Comments of NENA on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("NENA") at 2.

resources.

C. The current proposal to implement transitional technology-specific overlays does not advance the Commission number exhaust relief efforts.

Although Ad Hoc wholeheartedly supports the use of technology-specific overlays, the proposal of the Joint Wireless Commenters will likely cause more problems than it will solve. The Joint Wireless Commenters propose establishing technology specific overlays only when the original overlay has 30 NXX codes or the quantity of NXX codes equal to the number of rate centers.[13] In response, the Association for Local Telecommunications Services ("ALTS") comments that "the type of technology-specific overlays suggested [by the Joint Wireless Commenters] even if implemented on a transitional basis, could violate the principles [of neutrality] and contribute to NANP exhaust."[14] Ad Hoc concurs with ALTS' assessment that the Joint Wireless Commenters' proposal provides a "too little, too late" solution. Waiting until the underlying NPA is in jeopardy to implement a wireless-only overlay would allow wireless carriers to have ample access to numbers in the "transitional" area code while other carriers would be in a rationing status in the original area code, thus creating serious inequities in the availability of numbering resources.[15] The Illinois Commerce Commission supports the implementation of technology-specific overlays before

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[13] Joint Wireless Committee, *Proposal for Phased-In Area Code Relief*, Notice of Written *Ex Parte* Presentation, Numbering Resource Optimization, CC Docket No. 99-200 (November 15, 2000).

[14] Comments of Association for Local Telecommunications Services on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("ALTS") at 3.

[15] Comments of ALTS at 4.

imminent area code exhaust,[16] and the Ohio PUC concurs, suggesting that this type of overlay would be most effective if it was implemented while there were at least 300 NXX codes remaining in the existing NPA.[17] Ad Hoc believes that these concerns are justified and that implementation of technology-specific overlays at a point at which the underlying NPA is in jeopardy does little to further the goal of optimizing numbering resources.

Ad Hoc shares ALTS' concern that state commissions may attempt to solve competitive concerns by opening technology-specific overlays too early in an attempt to ensure that all carriers have equal access to numbering resources. ALTS' fears that this result could also lead to an overabundance of new technology-specific area codes that, "if followed by many states, would be contrary to NANP optimization, since a large number of the NPAs remaining in the NANP could be introduced prematurely."[18] The Commission can address the concern regarding the early adoption of technology-specific overlays by ensuring that technology-specific overlays are placed over more than one existing NPA. The use of permanent technology-specific overlays that cover more than one existing overlay *and* require "take-backs" will greatly diminish the need for area code relief.

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16 Comments of ICC at 5 and 9.

17 Comments of Ohio PUC at 6.

18 Comments of ALTS at 5.

D. Technology-specific overlays should cover more than one underlying NPA.

The Joint Wireless Commenters' November 15, 2000 ex parte proposal to limit the use of technology-specific overlays to the boundaries of the existing overlay is shortsighted and will do little to achieve the stated goals of numbering optimization.[19] Many commentersagree with Ad Hoc's position that establishing technology-specific overlays across more than one existing NPA will ensure that the overlay will not be underutilized nor contribute to the premature exhaust of the NANP.[20]

In contrast, VoiceStream's opposition to technology-specific overlays seems based on the belief that technology-specific overlays will increase the probability that available numbering resources will be stranded.[21] VoiceStream states that, "[c]arriers and operators need the same amount of numbers whether they operate in an all-service overlay or in a technology- or service-specific overlay."[22]

This problem can be solved by overlaying service- or technology-specific area codes across more than one existing NPA.[23] Because most (if not all) wireless carriers are not tied to ILEC rate center boundaries, these carriers would be required to obtain far fewer NXX codes in the single overlay NPA as compared to needing codes in each distinct geographic NPA region. By allowing for the deployment of expanded or

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19 Second Further Notice at para.135.

20 Comments of Ohio PUC at 9-10; Comments of New York DPS at 2; Comments of ICC at 5.

21 Comments of Voicestream at 3.

22 *Id.*

23 Comments of State Group at 2.

regional overlays for new technologies and wireless carriers that cover multiple geographic NPAs, it is more likely that utilization within the overlay NPA will be increased, as compared to the lower utilization that would result if each geographic region received its own service- or technology-specific overlay.[24] Ad Hoc is thus firm in its belief that *permanent* technology-specific overlays covering more than one existing NPA is the most efficient way to optimize numbering resources using this number conservation measure.

E. Technology-specific overlays are no different from using geographic area code splits and cannot be successfully implemented without allowing "take-backs".

Ad Hoc strongly supports the use of "take-backs" when implementing service- or technology-specific overlays. The policy of exempting wireless services from the very same "take backs" to which landline services have been subjected is, in fact, discriminatory. NASUCA suggests that in order to preserve the old NPA for a longer period of time, take-backs should be considered for long-term technology-specific overlays. Wireless users are far less likely to receive incoming calls; therefore, the take-back of such numbers would cause far less disruption to established calling patterns than take-backs of landline phone numbers. NASUCA agrees with Ad Hoc that wireless customers change their phone numbers frequently, and that number

[24] The ICC argues further that expanding the geographic scope of the overlay should be a non-issue because "it is no longer assumed that one can easily determine a called party's location from the dialed area code . . . Increasing the size of an overlay should present no additional customer confusion." Comments of ICC at 6.

changes are often required when they switch service providers at the end of a contract period. Thus, requiring wireless customers to undergo a change in area code/telephone number should not be a significant problem.[25]

Ad Hoc agrees with several commenters that there exists substantial public interest in establishing service or technology-specific overlays. The State Group comments that the public has often expressed an interest in placing wireless carriers "in their own area code" during state area code relief proceedings.[26] Also, an "extensive survey" conducted by the Ohio PUC indicates that "many customers" were overwhelmingly willing to accept wireless-only overlays.[27] Thus, the Commission should consider that consumer preferences may not prevent the adoption of overlays which could significantly reduce the speed of number exhaustion.

Many commenters continue to erroneously believe that area code changes required via take-backs are somehow different from the area code changes that tens of millions of wireline consumers across the country have been forced to accept whenever a geographic split is enacted. The Ohio and Connecticut Commissions argue that transitional technology-specific overlays should not include take-backs, as these may create a hardship on consumers and have an anti-competitive effect on certain carriers, *i.e.*, wireless carriers.[28] AT&T claims that take backs from wireless carriers are

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25 Comments of NASUCA at 8.

26 Comments of State Group at 1.

27 Comments of Ohio PUC at 8.

28 Comments of Ohio PUC at 9; Comments of Connecticut DPUC at 7.

"discriminatory and burdensome" and wireless carriers are especially "hard hit" because customers may have to go to a location to have their phones reprogrammed which, according to AT&T, is a huge (although unquantified) cost.[29] Ad Hoc strongly disagrees with these positions. Landline customers have been repeatedly asked to bear the entire cost and inconvenience of of geographic splits. If technology specific overlays were adopted to ease number exhaustion, the harm suffered by wireless carriers and their customers is no greater than that suffered by every landline customer when a geographic split is enacted.

Finally, the National Emergency Number Association ("NENA") appears to object to this type of overlay out of concern that technology-specific overlays would unnecessarily increase demand for new area codes, placing a strain on E911 operations. According to NENA, "the expansion of area codes, via splitting or overlay, continues to impact older 9-1-1 equipment, some of which has an area code limit of four."[30] Unfortunately, the current pace of area code relief would likely pose a problem to these older-generation E911 systems regardless of whether or not the Commission approves the use of technology-specific or service-specific overlays. The adoption of service- and technology-specific overlays covering larger geographic areas (i.e., multiple geographic NPAs) will actually slow the exhaust of the underlying NPAs therefore preventing the need for the introduction of new NPAs and providing a solution

[29] Comments of AT&T Corporation on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("AT&T") at 6.

[30] Comments of NENA at 2.

to the very problem NENA raises.

II. RATE CENTER CONSOLIDATION OFFERS A COMMON SENSE AND COMPREHENSIVE SOLUTION TO THE NATION'S NUMBERING CRISIS.

The consolidation of rate centers offers a comprehensive, long-term solution to the nation's numbering crisis. By consolidating rate centers, the demand for NXX codes by telecommunications carriers will decrease dramatically. Those carriers that already possess large quantities of NXX codes will be less likely to need additional codes, while new entrants seeking to provide competitive services will not require as many NXX codes to establish a footprint in every rate center where they want to offer service. As a result, the pressure to create new NPAs will be reduced and higher utilization of existing numbers within the NPA can occur.

With the potential costs of number exhaustion estimated at $50-150 billion,[31] the arguments put forth in opposition to the consolidation of rate centers simply do not justify passing on these costs to consumers to preserve an anachronistic rate structure that does not remotely reflect the realities of the modern telecommunications market. Furthermore, the Comments in this proceeding indicate that there is widespread support for rate center consolidation among a broad cross section of commenters, including carriers, regulators and end-users.[32] Several consumer benefits would result

[31] Notice, 14 FCC Rcd 10337, para. 34 citing NANC Meeting Minutes, Feb. 17-18, 1999 ("Notice").

[32] Comments of VoiceStream at 31 (describing rate center consolidation as "one of the most critical ways of achieving more efficient number utilization, because it directly addresses one of the main causes for stranded number resources."); Comments of Global NAPS, Inc. on Second Report and Order in CC Docket No. 99-200 (filed February 12, 2001) ("Global NAPS") at 3-4; Comments of Metrocall, Inc. on

from a reduction in the number of rate centers including: (a) reduction in the need for new area codes and therefore elimination of the attendant societal costs; (b) establishment of a rate system in which calls more accurately reflected their costs, thereby reducing non-cost-based charges to consumers; and (c) enhancement of local service competition, as CLECs would have "broader local calling areas in which interconnection is already done at cost-based rates."[33]

The parties that have expressed concern over implementing rate center consolidation fall into two distinct groups: first, the carriers that will lose significant quantities of toll revenue if rate centers are consolidated; and second, regulatory and consumer groups concerned that end-users' monthly rates will increase as a result of efforts to make carriers whole if certain revenue streams are eliminated.

A. The "Costs" Of Implementing Rate Center Consolidation Are Greatly Exaggerated By Those Parties Opposed To RCC.

The consolidation of rate centers will result in the expansion of local calling areas. When local calling areas expand, more calls are covered by the customer's flat-rate local calling fee, including calls that used to incur toll charges. Not surprisingly, incumbent local exchange carriers (ILECs) are often opposed to implementing rate center consolidation unless it is implemented on a revenue-neutral basis. In order to

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Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("Metrocall") at 11; Comments of Qwest at 3. In addition CTIA supports rate center consolidation wherever possible. Comments of Cellular Telecommunications Industry Association, Minnesota, NSD File No. L-00-206, on Second Report and Order in CC Docket No. 99-200 (filed February 12, 2001) ("CTIA") at 4-5; Comments of ALTS at 8 (acknowledging that CLEC requirements for initial codes are greatly reduced where RCC has taken place).

maintain revenue-neutrality, ILECs argue that local service monthly rates should be increased to make up for the lost toll revenue. Consumer groups and regulators, however, are opposed to increases in the monthly service rate so as to recover these "lost" revenues for the incumbent carrier. Essentially, incumbent carriers—when they oppose RCC—argue in favor of retaining a distance-based pricing scheme that would not exist if the market for local exchange services were fully competitive. When compared with the potential $50-150 billion cost of expanding the NANP, the potential lost revenue for consolidating rate centers is relatively insignificant.

1. Protection of the Revenues Earned by Incumbent Carriers' Through the Current Rate Center Structure Is Not A Reason To Forego Rate Center Consolidation.

The rate center construct is anachronistic. Technological advances have eliminated distance as a cost-driver in calculating the cost of a call. The numerous and minute rate centers subvert these advances because they exist solely to calculate calling distances between two parties, thus perpetuating the distinction between local and toll calling.[34] The largely noncompetitive local exchange market is the only market for telecommunications services that retains distance-sensitive prices. If the same level of competition existed in the local and intraLATA toll markets that exists in the interstate toll, wireless and Internet markets, local/toll distinctions and distance-based

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[33] Comments of Global NAPS at 4.

[34] Comments of Ad Hoc at 15-17. *See also* Comments of Global NAPS at 1-2.

pricing would undoubtedly disappear (as it has in those competitive markets).[35] There is thus no basis for affirmatively retaining the rate center construct if the economic basis no longer applies.

Many carriers contend that if rate center consolidation is implemented, it must be implemented in a revenue-neutral manner; that is, for every dollar of foregone intraLATA toll and switched access revenue, carriers expect a concomitant increase in local service rates. Ad Hoc acknowledges that the impact of such a policy on local rates would vary from state to state due to the variation in local calling areas and the proportion of total ILEC revenues that are derived from intraLATA toll. The upper limit of such a revenue impact nationwide, however, would be at most $2.7-billion annually. Such a figure further assumes that all rate centers within a LATA would be collapsed into a single rating area, (*i.e.,* that all rate centers in all jurisdictions are eliminated in favor of a single, LATA-wide rating area).[36] It follows that the economic impact of rate center consolidation would be less if a less ambitious consolidation plan were enacted. Furthermore, as noted by NASUCA, any revenues lost by RCC must be considered in the context of the savings that would result from slowing the implementation of new area codes.[37] This savings, together with costs avoided by pursuing other number

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[35] As NASUCA stated: the telecommunications industry is in all sectors moving toward a business model that eliminates distance as a cost driver, thereby eliminating the need for rate centers for pricing purposes. Comments of NASUCA at 16.

[36] Coments of Ad Hoc Comments at 16-17, citing Economics and Technology, Inc., *Where Have All the Numbers Gone? Rescuing the North American Numbering Plan from Mismanagement and Premature Exhaust (Second Edition)*, ("Numbering Plan Exhaust Study"), June 2000, at 33.

[37] Comments of NASUCA at 16.

resource conservation/optimization measures could be substantial.[38] At the very least, the ILECs "loss of revenue arguments" fail to take into consideration the significant costs avoided by inacting rate center consolidation. Before rejecting a potentially cost effective solution, the Commission should undertake a proper revenue-neutral analysis to assess these types of economic costs as well.

In fact, it may well be premature to assume that *any* form of rate center consolidation requires revenue-neutral rate restructuring. NASUCA correctly comments that there is no requirement that RCC be implemented in a revenue-neutral manner.[39] Moreover, as Ad Hoc noted in its *Petition for Rulemaking*,[40] to the extent that some ILECs are currently earning far in excess of a fair return on their investment, elimination of some or even all intraLATA toll revenue might not require *any* offsetting increase in local rates. If existing rates are producing sufficiently high levels of earnings so that rate center consolidation/elimination could be implemented without the need to increase monthly local service rates, *i.e.*, without reducing earnings to a point where such reduction becomes confiscatory, revenue-neutral rate realignment would not be required in all cases.[41] Since the specific consolidation of rate centers will be implemented by state utility commissions, states will have the discretion to make

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[38] NASUCA, for example, cites Verizon Pennsylvania filings indicating that area code relief costs incumbent carriers $8.5-million for each all-service overlay and $11.5-million for each geographic split. *Id.* at 31, citing Comments of Verizon Pennsylvania, Inc., PUC Docket No. P-00961071F0002 (filed October 30, 2000) ("Pennslyvania PUC") at 6.

[39] Comments of NASUCA at 16.

[40] Comments of Ad Hoc, Petition for Rulemaking, (Attachment A), Section V.

[41] *See*, *e.g.*, *Duquesne Light Co. et al v. Barasch et al.,* 488 U.S. 299, 307-09 (1989).

determinations about the appropriateness of permitting offsetting increases in local rates to compensate for any revenues lost by the consolidation of rate centers.

2. Increases In Basic Local Service Rates Will Be Offset By Lower IntraLATA Toll Charges, Thus Minimizing the Impact of Any Rate Increases On Consumers.

Several commenting parties expressed concern about the "significant" rate increases that consumers would face if rate center consolidation were to be implemented, citing monthly increases in local service rates of $1.09-$15.73 as set forth in a recent study by Economics and Technology, Inc.[42] For example, the State Coordination Group ("State Group") believes that "no progress can be made until the revenue issues (the need to raise basic monthly rates to compensate the ILECs for lost toll revenues) are resolved."[43] The New York Department of Public Service concluded that RCC would result in basic rate increases to consumers, which "is not a viable solution to the numbering crisis."[44] The New Hampshire Public Utilities Commission concerned about increasing residential consumer rates, considers RCC to be "one of few conservation tools that continue to lack viability."

Unfortunately, the detractors of RCC have focused on only one side of the equation: the change in rates for local service. There is, however, a significant benefit

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[42] Economics and Technology, Inc., *Where Have All the Numbers Gone? Rescuing the North American Numbering Plan from Mismanagement and Premature Exhaust* (second edition), June 2000.

[43] Comments of State Group at 3. The State Group is comprised of the staffs of the state public utility commissions of California, Connecticut, Florida, Indiana, Maryland, Maine, Nebraska, New Hampshire, New York, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, Vermont and Virginia.

[44] Comments of New York DPS at 3.

to consumers. Local service rates would be increased solely to replace toll revenues foregone as a result of expanding the local calling area. Thus, although local service rates might increase, at the same time, consumers should see their intraLATA toll charges decrease.

To understand the offsetting effect that the expansion of local area calling would have on any increases in the cost of local services imposed by the ILECs to cover, the Commission should consider that the total foregone toll revenue (depending on the particular RCC plan implemented) could potentially be covered by an increase in local service rates equal to the average per-line intraLATA toll revenue that could no longer be collected. Because rate center consolidation would result in a reduction in the cost of intraLATA toll calling, the average customer would experience no change in the monthly amount spent on local and intraLATA toll service.

In the context of this analysis, some commenting parties have overstated the effect of rate center consolidation on many consumer bills. The New Hampshire PUC, for example, indicated that local service rates would increase by $7.57 if rate center consolidation were implemented, based on the average intraLATA toll revenue per access line in New Hampshire.[45] Notwithstanding the fact that this figure reflects the maximum rate increase for local service that could be contemplated,[46] the New

[45] Comments of New Hampshire PUC at 2-3.

[46] The maximum rate increase would occur if a state were to consolidate all rate centers within a LATA into a single rating area, which would in effect create LATA-wide local calling areas and eliminate intraLATA toll entirely. While Ad Hoc believes that such a scenario would offer the best opportunity to prevent the unnecessary assignment of more area codes, Ad Hoc agrees with NASUCA that, "[e]ven the slight reduction in the number of rate centers in area codes throughout the country will have a tremendous

Hampshire PUC completely ignored the offsetting amount of charges for intraLATA toll that would no longer be incurred on a monthly basis which, on average, would also equal $7.57.

Ad Hoc acknowledges the fact that some consumers will see overall rate increases for their local services following rate center consolidation, particularly those consumers who incur very few intraLATA toll charges. Even with these costs, however, the dismissal of RCC as a number conservation measure without first examining (1) the actual impact on intraLATA toll in a given state based on the RCC plan under consideration; and (2) the use of expanded local calling areas or optional calling plans by consumers would be irresponsible, considering the cost savings that rate center consolidation could achieve by significantly delaying exhaustion of the NANP.

Recent events in Massachusetts provide excellent insight into the fallacious argument that rate increases stemming from RCC will negatively affect consumers. The Massachusetts Attorney General proposed two forms of rate center consolidation in an effort to prevent the need for assigning additional area codes in eastern Massachusetts.[47] In conducting a "feasibility analysis" of the Attorney General's proposals, Bell Atlantic-Massachusetts submitted information on the calling plans

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impact on conserving telephone resources." Comments of NASUCA at 14. Thus, the complete consolidation of rate centers is not necessary to achieve positive results in the preservation of numbers.

[47] The Department of Telecommunications and Energy's Investigation to Determine the Need For New Area Codes in Eastern Massachusetts And Whether Measures Can Be Implemented To Conserve Exchange Codes Within Eastern Massachusetts, Comments of the Attorney General Regarding Rate Center Consolidation in MA DTE Docket No. 98-38 (filed March 19, 1999) ("MA Attorney General").

subscribed to by residential customers in eastern Massachusetts. A full 43% of those customers paid anywhere from $3.00 to $29.05 extra per month to increase their local calling area,[48] yet the Massachusetts Attorney General's two proposals for rate center consolidation contemplated rate increases of only $3.65 for the Regional Call Plan or $6.19 for the Single Rate Center plan.[49] Thus, nearly half of residential customers would have experienced very little change to their monthly bill before rate center consolidation was enacted. Indeed, many consumers might have enjoyed a substantial rate *decrease* had either of these two plans for rate center consolidation been adopted.

Furthermore, the data in Massachusetts belies the argument that rate center consolidation would result in increases in the cost of local services that would sharply affect low income households. Approximately 34% of the Massachusetts consumers that qualify for low-income Lifeline service subscribe to one of Bell Atlantic's optional calling plans – for which they receive no subsidy.[50] Even if these customers were subjected to similar rate increases for the basic monthly service (to which the Lifeline subsidy applies), a significant number would also experience a net decrease in their monthly bills. Moreover, any customer, regardless of whether they subscribe to

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[48] The Department of Telecommunications and Energy's Investigation to Determine the Need For New Area Codes in Eastern Massachusetts And Whether Measures Can Be Implemented To Conserve Exchange Codes Within Eastern Massachusetts, BA-MA's Feasibility Analysis of the Attorney General's Proposed Rate Center Consolidation Plans in MA DTE Docket No. 98-38 (filed September 24, 1999) at Attachment A.

[49] The Regional Call Plan consolidated the 203 rate centers in the eastern Massachusetts LATA to 25 rate centers. The Single Rate Center plan consolidated all 203 rate centers into one LATA-wide rating area. Comments of MA Attorney General at 9-18.

[50] Comments of MA Attorney General at Table C.

Lifeline, could select measured rate service, and thus insulate themselves from these rate increases.

It is therefore incorrect to insinuate that RCC results in substantial one-sided rate increases that offer no benefit to consumers. The only way to fully evaluate the effects of a particular form of rate center consolidation is to conduct a detailed study of the foregone revenue to the incumbent carrier and the rate adjustments that would be imposed upon consumers. Ad Hoc contends that there is little reason to believe that the situation in Massachusetts as described above would be materially different in other states across the country, strongly suggesting that many customers (even many Lifeline customers) see real value in paying for optional expanded local calling plans. Those that do not could have the option of purchasing measured rate service.

B. E911 Issues Should Be Examined And Remedied.

The National Emergency Number Association (NENA) raises three issues that must be addressed when considering RCC. First, E911 networks across the country must be upgraded. Second, E911 database systems must be upgraded. Third, RCC should be accomplished by using E911 default boundaries, which usually correspond to counties or similar type areas.[51]

The Commission should address the concerns raised by NENA, and Ad Hoc recommends further evaluation of these issues so that E911 service can be continued

[51] Comments of NENA at 2.

with no disruption upon implementation of various rate center consolidation plans.[52] It bears noting, however, that existing rate center boundaries often do not coincide with municipal, county or other political subdivision lines, and mechanisms have been developed and implemented to assure that E911 calls are properly directed to the appropriate governmental unit in those cases in which multiple municipalities are embraced within the same rate center or central office serving area. RCC may well increase the frequency with which this condition arises, but it does not introduce a condition that does not already exist. Additionally, RCC does not in and of itself require that ILECs – or any other carrier for that matter – modify existing wire center serving areas or E911 routing protocols. RCC – particularly from the ILECs' perspective – is accomplished administratively by redefining rating tables and, in some cases, dialing patterns. RCC does not, as NENA implicitly suggests, require any immediate switch serving area reconfigurations or routing changes CLEC switches already serve multiple rate centers and municipalities and must already address the kinds of E911 concerns that NENA raises.

C. Ad Hoc's Proposal for an NPA-Utilization Threshold Will Create the Appropriate Incentive for States to Implement Rate Center Consolidation which will Prolong the Life of the NANP.

Thus far, the individual states have been unwilling to undertake meaningful rate center consolidation in the absence of a national policy mandating such action. Rather than mandate states to eliminate rate centers outright, the Commission should

[52] Ad Hoc assumes that E911 concerns were raised and dealt with in the various regions that have

implement a federal policy wherein a cumulative utilization threshold must be met by all carriers as a whole within an area code prior to that jurisdiction receiving assignment of additional area codes for relief purposes. As Ad Hoc noted in its Comments, the Commission should adopt a utilization threshold for NXX numbers within any NPA equal to 44% that must met before the NANPA will release any additional NPAs to the state utility commission for numbering relief purposes.[53] In the absence of a Commission mandated threshold, states are unlikely to consolidate their rate centers, and the ultimate goal of preventing exhaust of the ten-digit NANP will be frustrated. As a result, the entire nation will then be subjected to the completely avoidable costs associated with the expansion of the NANP to eleven or twelve digits.

1. A National Problem Requires a National Policy.

In combination with the other number optimization measures adopted by the Commission, consolidating rate centers offers the opportunity to end the numbering crisis and the concerns over NANP exhaust.[54] As the Commission has affirmed, number exhaust is a "national problem that must be dealt with at the federal level."[55]

As Ad Hoc noted in its Comments, the Commission has plenary authority over the NANP under the 1996 Telecommunications and should exercise that authority to

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already implemented rate center consolidation.

[53] Comments of Ad Hoc at 19.

[54] Comments of Global NAPS at 5 (rate center consolidation is "the only true solution to the numbering resource crisis.").

[55] First Report and Order, 15 FCC Rcd 7574, 7578 (rel. March 31, 2000) at para. 3.

establish the aforementioned NXX utilization thresholds across NPAs that must be met by a state before additional NPAs will be assigned for relief of number exhaustion.[56] Accordingly, Ad Hoc urges the Commission to adopt the proposed utilization thresholds.

While this national policy originates at the Commission, the policy will succeed because it provides state public utility commissions the latitude to implement policies (within their authoritative purview) that will meet the needs of the individual state. Ad Hoc agrees with NASUCA that state commissions are uniquely situated to determine whether RCC should be performed in their state, and urges state commissions to undertake an analysis to determine whether RCC can be implemented in an effective form.[57] By permitting state utility commissions to implement specific rate center consolidation plans that meet nationally uniform NXX utilization thresholds, states will have the discretion to address rate realignment as they see fit, and in a manner that balances the interests of all parties.

2. The Commission Should Adopt Long-Term Solutions To The Long-Term Problem Of NANP Exhaust.

Exhaust of the ten-digit NANP, absent strict and effective number conservation policies, will happen. While early estimates put exhaustion somewhere in the 2006-2010 timeframe, implementation of thousands-block number pooling may extend the

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[56] *See* Ad Hoc February 12, 2001 Comments, at 19-20 and Attachment A, Petition for Rulemaking; *Notice* at para. 16.

[57] Comments of NASUCA at 15.

exhaust date by 10 or 15 years.[58] No commenting party or industry analysis, however, has disputed the fact that pooling will only serve to delay exhaust of the NANP and will not provide long-term solution to the nation's numbering crisis.

Although many parties have identified the costs of rate center consolidation, those costs must be compared to the costs associated with the failure of number optimization efforts, resulting in mandatory expansion of the NANP. Admittedly costs—the exact amount of which is in considerable dispute—could be incurred for rate center consolidation; but such "costs" are most certainly minimal when compared to the $50-150-billion price tag associated with NANP expansion.

Ad Hoc urges the Commission to take a long term view and embrace a solution—rather than a stop-gap measure—to the nation's numbering crisis. By adopting a national NPA-level number utilization policy that promotes conservation measures at the state level, the Commission can reduce much of the inefficient and wasteful use of numbering resources that has occurred. In so doing, exhaust of the ten-digit NANP will be avoided, and society will be spared the economic waste of adding additional digits to the NANP.

III. FEES IMPOSED ON NUMBER RESERVATIONS ARE UNNECESSARY AND WILL NOT PROMOTE CONSERVATION OF NUMBERING RESOURCES.

The Commission's current attempts at policing number reservations in the name of number conservation are unnecessary. As a number conservation matter, reserved

[58] NANPA Report to the NANC, September 19-20, 2000, at 2-5.

numbers represent a *de minimis* percentage of the number inventory of a given carrier. The quantity of numbers held in reserve by carriers for end users is very small when compared to the quantity of numbers that become stranded (and thus unusable) as a result of current inefficient number allocation practices. Any policies implemented with the goal of limiting or reducing quantities of reserved numbers will have an imperceptible effect upon the nation's numbering crisis, and will likely have unnecessary negative impacts on end users.

The suggestions of some commenting parties, including limiting the quantity of reserved numbers, limiting the number of extensions, and/or preventing an end-user from accessing a certain block of previously reserved numbers, are unnecessary, as these policies will neither protect against number hoarding nor free up a large volume of unused numbers.[59] Moreover, such tactics will serve only to harm bona fide end-users by imposing unwarranted restrictions on genuine consumer demands.

Ad Hoc continues to oppose, as do many commenting parties, the NANC's proposal to charge a fee to carriers and/or end users to extend the time period for which numbers can remain in reserved status.[60] Although some parties favor the use of an extension fee to be paid by the end-user in an effort to discourage number hoarding and/or to penalize the end-user for requesting an extension, such a fee is unlikely to alleviate the strain on numbering resources, to provide assurance that the reserved

[59] Comments of State Group at 6; Comments of NASUCA at 20-21.

[60] Comments of Ad Hoc at 24; Comments of Verizon at 3; Comments of State Group at 6; Comments of Ohio PUC at 21; Comments of New York DPS at 5; and Comments of NASUCA at 22-23.

numbers will be used.[61] Unforeseen events may occur that would require an extension on numbers held in reserve, and Commission policy should allow for such extensions on a month-to-month basis in the case of a bona fide request by an end user. Furthermore, charging a fee to end users for reservations and/or extensions may serve to harm those with limited resources and may also hinder competition by favoring carriers with large stockpiles of unassigned numbers.[62]

Ad Hoc is firmly opposed to the suggestion of the Illinois Commerce Commission that the Commission should require carriers to identify both the end user and the anticipated date of activation for reserved numbers.[63] This policy should be rejected, as it plays no role in conserving numbering resources. In addition, such a policy would violate the privacy of both end users and carriers by revealing what could rightfully be considered competitively sensitive data.

Ad Hoc, in conjunction with many commenting parties, commends the Commission's decision to extend the maximum period for reserving numbers to 180 days.[64] National numbering policy should in no way hinder customer access to numbering resources. Rather than imposing penalties upon end users for inadequate number conservation measures, the Commission should instead focus its efforts upon

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[61] Comments of Verizon at 3-4; Comments of ALTS at 12; Comments of Qwest at 4; Comments of State Matrix at 6; Comments of NASUCA at 22-23; Comments of New York DPS at 5; and Comments of Ohio PUC at 21.

[62] Comments of NASUCA at 22-23; Comments of State Group at 6.

[63] Comments of ICC at 12.

[64] Comments of State Group at 6; Comments of ICC at 12; Comments of New York DPS at 5; and Comments of Qwest at 4.

optimization solutions such as thousands-block number pooling, rate center consolidation, and service- and technology-specific overlays that will free up significant quantities of stranded numbers.

IV. THE COMMISSION SHOULD ABANDON ITS EFFORTS TOWARD A MARKET-BASED APPROACH FOR OPTIMIZING NUMBERING RESOURCES.

ILECs, CLECs, wireless carriers, state utility commissions, and consumer advocates have all voiced their opposition to any form of a market-based number allocation scheme.[65] The Commission has carefully implemented numerous number conservation measures that are widely recognized to have a positive, nondiscriminatory effect on the drain of numbering resources; however, the same cannot be said for a market-based allocation of numbers. Ad Hoc agrees with the position of numerous commenting parties that the Commission does not have the necessary authority to set prices for numbers or to conduct auctions for numbers. Even if the Commission were to possess such authority, there is no evidence in the record to demonstrate that a pricing for numbers scheme can be implemented in a nondiscriminatory manner or that it will actually be effective in curtailing carrier demand for NXX codes. As such, there is no basis to move forward on a number pricing policy.

[65] *See,* for example, Comments of AT&T at 21; Comments of Time Warner Telecom on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("Time Warner Telecom") at 2; Comments of New York DPS at 6-7; Comments of Ohio PUC at 23; Comments of Verizon at 10; Comments of ALTS at 16; Comments of Qwest at 16-17.

A. The Commission Lacks The Necessary Authority To Set Prices For Numbers.

As many commenting parties have stated, the FCC does not have authority to implement a market-based allocation scheme.[66] Although Section 251(e)(1) of the Telecommunications Act of 1996 provides the Commission with plenary jurisdiction over numbering issues, the Commission has not been authorized to initiate a market-based allocation scheme for numbers, much less an auction for numbers.

The lack of a clear statutory mandate indicates that the Commission lacks authority to develop a market allocation scheme for numbering resources. VoiceStream argues that the explicitness of Section 309(j) of the Act reflects the importance Congress placed on authorizing market-based allocation schemes for wireless spectrum. Section 309(j) provides the Commission with detailed instructions on such issues as "the necessary design of competitive bidding systems, the contents of the competitive bidding regulations, and the bidder and licensee qualifications."[67] By setting forth wireless spectrum auction requirements in detail, Congress recognized both the importance of the market-based allocation scheme, and the harm that could occur should a market-based allocation scheme be conducted improperly. If Congress had intended for the Commission to have the authority to implement a market-based allocation scheme for numbers, Congress would have included in Section 251(e)

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[66] Comments of Verizon at 10; Comments of ALTS at 16; Comments of Ascent at 2; Comments of VoiceStream at 17-19; Comments of Qwest at 15.

[67] Comments of VoiceStream at 18, citing 47 U.S.C § 309(j).

language similar to that adopted in Section 309(j).[68] Indeed, Time Warner Telecom points out that "the Commission recognized that it lacked the authority to auction public spectrum until it was given explicit authority to do so in 1993."[69]

VoiceStream also argues that Section 251(e)(2) limits the Commission's authority to implement a market-based allocation scheme for numbering resources. Section 251(e)(2) limits the Commission's authority to determine the "cost of establishing telecommunications numbering administration arrangements," yet a market-based allocation scheme is designed to determine a price, which is altogether different than the statutorily permissible "cost."[70]

Time Warner Telecom adds that "[i]f the Commission's plenary power under Section 251(e)(1) were broad enough to authorize the Commission to address issues of cost recovery, there would have been no need for Congress to authorize the Commission to establish rules governing the recovery of the costs of numbering administration in Section 251(e)(2)."[71] Ad Hoc agrees with these compelling arguments: the Commission's plenary jurisdiction over numbering issues does not appear to authorize it to implement a market-based number-pricing scheme, particularly one that sets prices via an auction.

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68 *Id.* at 18.

69 Comments of Time Warner Telecom at 3, citing *Implementation of Section 309(j) of the Communications Act – Competitive Bidding*, Second Report and Order, 9 FCC Rcd. 2348 (1994) at para. 1.

70 *Id.* at 19.

71 Comments of Time Warner Telecom at 3.

The Ohio Public Utilities Commission (Ohio PUC) apparently acknowledges the limits on the Commission's authority to implement a market-based number pricing plan. Despite the fact that the OHIO PUC is generally opposed to any system that does not appropriately recognize the economic value of number resources,[72] it nonetheless recommends that if the Commission chooses to pursue a market-based approach, the Commission should establish a recovery mechanism that is cost-based.[73] Such an approach is nonsensical. The purpose of pursuing a market-based approach for allocating numbers in the first place was so that carriers would recognize the economic *value* of numbering resources.[74] Under OHIO PUC's proposed plan, which would include elements for both acquisition and retention of numbers, the cost-based pricing mechanism exists solely to "recover[the costs of applying for and retaining numbering resources,"[75] and has nothing whatsoever to do with recognizing the economic value of numbers. Therefore, OHIO PUC's recommendation must be dismissed.

B. Even If The Commission Were To Have The Authority To Implement Market-Based Pricing For Numbers, There Is No Evidence That Such a Plan Will Conserve Numbering Resources Or Be Competitively Neutral.

No evidence has been presented to demonstrate that a number pricing plan would actually reduce the demand for numbers.[76] Ad Hoc has repeatedly argued that a

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72 Comments of OHIO PUC at 23.

73 *Id.*

74 Second Further Notice at para. 226.

75 OHIO PUC, at 25.

76 Comments of Maryland Public Service Commission on Second Report and Order in CC Docket

pricing scheme for numbers is inappropriate because carrier utilization levels are not determined solely by the carrier. Low utilization levels stem from the inefficient method by which numbers are assigned in blocks of 10,000 (or 1,000 where pooling has been implemented) in each and every rate center in which the carrier seeks to provide service. Simply establishing a footprint in eastern Massachusetts or Maine will require assignment of some 2-million telephone numbers to every carrier regardless of end user demand for service.[77] Under a number pricing scheme, carriers would be forced to incur significant costs[78] for the sole purpose of competing for telecommunications services. Even if a carrier were to "recognize" the economic value of numbers, it would still require the same quantity of NXX codes to establish a service footprint. Recognition of the economic value of numbers would only serve to force carriers to determine whether or not a market should be entered. To the extent that a pricing plan actually *discourages* competitive entry in this manner, it would be in direct conflict with the goals of the Telecommunications Act of 1996, which was premised on the concept of fostering competition and eliminating barriers to entry.[79]

In its Comments, Ad Hoc argued that a market-based number allocation scheme is contrary to each and every one of the itemized goals established by the Commission

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No. 99-200 (filed February 14, 2001) ("Maryland PSC") at 3.

[77] Both eastern Massachusetts and Maine have approximately 200 rate centers.

[78] Ad Hoc assumes that the economic value of 2-million numbers would have to be "significant" if such a pricing plan is expected to have any impact on consumption of numbers.

[79] Comments of VoiceStream, at 19.

when creating national standards for numbering resource optimization.[80] No commenting party has advanced any arguments or made any demonstration that these conclusions are false. As such, Ad Hoc once again requests that the Commission recognize that a market-based number allocation scheme is discriminatory, costly, anti-competitive, and runs contrary to the Commission's well-established numbering policy goals. The Commission should dismiss the concept of a number pricing scheme, and instead focus its resources on proven number conservation measures that will prevent exhaust of the NANP, including rate center consolidation, thousands-block pooling, and service-and technology-specific overlays.

V. CARRIERS DO NOT REQUIRE ADDITIONAL COST RECOVERY FROM CONSUMERS FOR THE IMPLEMENTATION AND ADMINISTRATION OF THOUSANDS-BLOCK NUMBER POOLING.

Ad Hoc believes that there is no need for separate recovery of "direct" costs associated with thousands-block pooling because the incremental costs of implementing thousands-block pooling are less than the costs associated with the perpetuation of current area code "relief" practices and the expansion of the NANP. A cost recovery mechanism has already been provided for the implementation of local number portability, which accounts for a substantial portion of the costs of number pooling. Consumers should not be subjected to additional and unnecessary cost recovery mechanisms.

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[80] Comments of Ad Hoc at 25-29.

Commenting parties have continually failed to provide sufficient information to the Commission regarding the expected costs of number pooling. AT&T notes that:

> Notwithstanding [the Commission's] repeated requests, the ILECS have thus far declined to provide the cost studies sought by the Commission. Instead, they have submitted unsupported cost estimates, which are riddled with errors, openly flaunt the standards adopted in the First NRO Order, and demonstrate that they intend to recover costs far in excess of those properly attributable to the implementation of number pooling.[81]

Some carriers did attempt to make a demonstration of costs to the Commission in their initial comments. Verizon claims that recent pooling experience indicates that total costs for number pooling are likely to be in the range of $100- to $110-million for the Bell Atlantic region and $41- to $51-million for GTE. Interestingly, the Maine PUC submits comments stating that Verizon Maine's cost to implement thousand block pooling using 1.4 NPAC software was $1.1-million, a far lower estimate when one divides the costs provided by Verizon among its service territory states, even taking Maine's relative size into account.[82] Qwest, far smaller than Verizon in terms of total access lines, estimates total pooling costs of $260-million,[83] 150% more than Verizon's estimate. It bears noting that neither carrier submitted a cost study supporting these estimates for Commission review. The SBC "cost study" provides estimates for the entire thirteen state operating region totaling $182.1-million.[84] SBC's study is lacking in

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81 Comments of AT&T at 19.

82 Comments of Maine Public Utility Commission on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("Maine PUC") at VIII.

83 Comments of Qwest at 10.

84 SBC Cost Study, at Tab 2.

many respects, and fails to provide adequate documentation as to how these estimates were derived.

As the Commission has requested, Ad Hoc and NASUCA agree that any discussion of pooling costs must consider the cost savings associated with preventing or delaying the implementation of additional area codes.[85] The cost of implementing a new area code has been estimated by Verizon Pennsylvania to be $8.5-million for each overlay and $11.5-million for each geographic split.[86] The costs of implementing thousands-block pooling have been placed at $775,000 per area code.[87] There is little question as to the accuracy of NASUCA's conclusion that the costs of pooling will result in a net cost savings to carriers when compared to the costs of expanding the NANP.[88]

The carriers, however, have refused to take these cost savings seriously. SBC's estimate of cost savings assumes that pooling will only delay area code exhaust by somewhere between zero and three years.[89] Verizon does not offset its cost estimate with savings, because Verizon claims that "[a]t this point, pooling will not make any area code relief unnecessary or significantly delay the need for relief."[90] Verizon suggests that the industry has successfully delayed the implementation of pooling so

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[85] Second Further Notice at para. 182; Comments of NASUCA at 31.

[86] Comments of NASUCA at 31, citing Comments of Verizon Pennsylvania, Inc., PUC Docket No. P-00961071F0002 (filed October 30, 2000) at 6.

[87] *Id.*, citing Comments of Verizon Pennsylvania, Inc., Docket No. M-00001427 (filed November 17, 2000) at 10.

[88] Comments of NASUCA at 32.

[89] SBC Cost Study. For instance, SBC assumes that only 7 of 35 Ameritech NPA's will incur some cost savings, at "Ameritech Pooling Priority List".

long that the use of pooling now will be unsuccessful. If the ILECs' views that pooling will not be successful, the importance of pursuing indisputably effective measures such as rate center consolidation/elimination or unassigned number portability becomes even clearer. Thousands-block pooling will will not prevent ultimate exhaustion of the NANP in any meaningful way.[91]

Verizon asserts that cost recovery should be done through an extension of the number portability surcharge.[92] Ad Hoc believes, and both NASUCA and AT&T agree, that the costs for thousands-block pooling are not an exogenous cost and therefore should not be recovered via a flow-through to customers.[93] As previously stated by Ad Hoc and reflected in the comments of NASUCA,[94] allowing price cap or rate of return regulated carriers to recover the cost of implementing pooling would violate Section 251(e)(2) of the Telecommunications Act of 1996, which states that "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 FCC." Costs associated with the implementation of thousands-block pooling should be treated as a normal cost of doing business, as

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[90] Comments of Verizon at 5.

[91] Moreover, if the costs of pooling are as high as the ILECs have claimed and if the Commission is inclined to permit the ILECs to flow these costs through to ratepayers, then the effective ratepayer impact of rate center consolidation/elimination as an alternative to pooling is actually reduced, in that the "cost" to consumers of RCC would be offset by the costs avoided by not pursuing pooling.

[92] Comments of Verizon at 6.

[93] Comments of NASUCA at 32; Comments of AT&T at 18.

[94] Comments of NASUCA at 33.

these costs are no different than the costs incurred for implementing new area codes. The Commission should therefore refrain from establishing an explicit cost recovery mechanism for thousands-block pooling.

While AT&T rejects the need for carriers to recover pooling costs, AT&T proposes that if the Commission does adopt a pooling cost recovery mechanism, those costs should not be recovered through access charges. The Commission already found, in the case of local number portability costs, that such a method would not be competitively neutral.[95] Ad Hoc agrees with that conclusion.

VI. STATES SHOULD HAVE THE AUTHORITY TO REQUIRE NON-LNP-CAPABLE CARRIERS TO PARTICIPATE IN THOUSANDS-BLOCK POOLING.

Ad Hoc supports the Commission's proposal to require all carriers, regardless of current rules regarding LNP-capability, to participate in thousands-block number pooling.[96] Comments by many state commissions also support this policy.[97] As Ad Hoc noted in its Comments "[f]ull participation in pooling reduces CO Code consumption to less than 25% of the original CO Code demand rate without pooling."[98] Clearly, either partial participation in terms of geographic area or partial participation in terms of number and type of carrier drastically reduces the effectiveness of thousands-block

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95 Comments of AT&T at 20.

96 Second Further Notice at paras. 184-185.

97 Comments of Ohio PUC at 6; Comments of Iowa Utilities Board on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("Iowa Utilities Board") at 4; Comments of Maine PUC at 9; and, Comments of Pennsylvania PUC at 11.

98 Comments of Ad Hoc at 33, *citing* Number Plan Exhaust Study at 4-2.

number pooling in terms of avoiding NANP exhaust. Thus, the benefits to number optimization efforts outweigh the associated costs of pooling.

Metrocall opposes the extension of pooling to non-LNP capable providers because of the substantial cost to carriers for network updates.[99] Metrocall claims that these costs are enough to bankrupt carriers, given the fact that many wireless messaging companies are already operating at a loss.[100] Metrocall argues that since paging/wireless messaging companies only hold 7% of the NXX codes they "do not consume the significant share of numbering resources that would justify requiring them to implement SS7 signaling and participate in number pooling."[101] Metrocall urges the Commission to identify other ways that messaging carriers can contribute to number conservation efforts without being forced to participate in number pooling.[102]

Similarly, the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) argues that requiring LNP deployment in areas where competitors have not requested LNP results in no public benefits, while at the same time imposing burdensome costs on small ILECs, their customers, and other users of the network.[103] OPASTCO argues that requiring pooling for small ILECs would

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[99] Comments of Metrocall at 3. Metrocall estimates that implementation costs and subscription fees for SS7 for the first year would be about $3-million, excluding usage fees, and that after the first year, the recurring annual cost would be $1.5-million plus usage fees. Comments of Metrocall at 4-5.

[100] *Id.* at 5.

[101] *Id.* at 7.

[102] *Id.* at 8.

[103] Comments of Organization for the Promotion and Advancement of Small Telecommunications Companies on Second Report and Order in CC Docket No. 99-200 (filed February 14, 2001) ("OPASTCO") at 6-7.

provide *de minimis* number optimization benefits.[104]

Comments of various state commissions directly contradict OPASTCO's argument regarding the benefits to be gained from wider inclusion of carriers in thousands-block pooling.[105] The State Group suggests that the Commission should delegate authority to the states to determine whether non-LNP-capable carriers should be required to participate in pooling, as specific circumstances will vary within each state, such as telecommunications traffic, whether the rural exemption has been lifted, proximity to urban areas, and carrier utilization data.[106]

Maine, Iowa, and New York all present compelling evidence as to the necessity of allowing states to require LNP capability for the purpose of participation in thousands-block number pooling.[107] The comments of Iowa and Maine specifically address requiring LNP-capability and pooling outside the top 100 MSAs. The Iowa Utilities Board suggests that the current practice of rolling out pooling to the top 100 MSAs is "not an ideal solution for everyone."[108] Only one of Iowa's area codes is in a top 100 MSA, and the Commission has declined to delegate authority to the Iowa Utilities Board to conduct pooling trials in any other area codes in Iowa as the Board

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104 *Id.* at 7.

105 Comments of New York DPS at 7; Comments of Iowa Utilities Board at 4; Comments of Maine PUC at 9; Comments of Ohio PUC at 27.

106 Comments of State Group at 9.

107 Comments of New York DPS at 7; Comments of Iowa Utilities Board at 4; Comments of Maine PUC at 9.

108 Comments of Iowa Utilities Board at 4.

requested.[109] Arguments such as those set forth by OPASTCO on the effect of small carriers on numbering usage dissolve with one look at the situation in Iowa. There are three large ILECs and over 150 small ILECs operating in the state of Iowa.[110] Nonetheless, the Iowa Utilities Board has recently implemented its 5th area code, which provides for 38.5-million telephone numbers to serve a population of 2.9-million.

Maine does not contain a single top 100 MSA, so carriers will never be required to be LNP-capable unless there is a carrier request. The Maine PUC continues to believe, however, that the inclusion of wireless carriers in a pooling process would "increase the effectiveness of pooling substantially."[111] For example, the utilization rate of wireless carriers in Maine is about 33% (as compared with 42% nationally[112]), and there exist a few special prepaid services that have received a block of 10,000 telephone numbers and yet have less than 20 numbers in use![113]

Not to be outdone, in New York, the presence of non-LNP capable carriers has also hampered numbering optimization efforts. For example, 220,000 numbers are currently stranded in the 315 area code pool alone because of non-LNP capable CLECs.[114]

Ad Hoc believes that the experience of states shows that participation by all

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109 Comments of Ad Hoc at 35.

110 Comments of Iowa Utilities Board at 1.

111 Comments of Maine PUC at IX.

112 Numbering Resource Utilization in The United States, Report by Industry Analysis Division, Common Carrier Bureau, FCC (2000), at Table 1.

113 Comments of Maine PUC at IX. This equates to a utilization rate of 0.2%.

carriers in thousands-block pooling will provide for greater success in numbering resource conservation efforts and is the most competitively neutral solution. The arguments presented by Metrocall and OPASTCO do not merit consideration, because when viewed as a whole, the resulting block of stranded numbers generated by the inefficient number assignment methods of all non-LNP-capable carriers is significant.

The Commission's current policy limiting the ability of states to require LNP-capability denies states the ability to implement a truly effective pooling policy. The Maine PUC wants "the flexibility to make such a decision when the circumstances warrant without having to go through a lengthy process at the FCC."[115] All state circumstances are different, and the Commission should give states the power to decide when and who should participate in pooling. The current plans for thousands-block number pooling should be expanded to provide states with the opportunity to include all carriers. Should the Commission deem it necessary to permanently exempt some carriers from participation in the pooling effort (which it should not), it must provide states with the opportunity to place these carriers into a technology-specific NPA that may cover several NPA regions, and it must permit take-backs of numbers from these carriers so as to extend the lives of NPAs served by LNP-capable carriers.

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[114] Comments of New York DPS at 7.

[115] Comments of Maine PUC at IX.

VII. AD HOC SUPPORTS THE USE OF A "SAFETY VALVE" FROM THE GENERAL WAIVER PROCESS FOR THE GROWTH NUMBERING RESOURCE REQUIREMENTS.

As outlined in Ad Hoc's Comments, Ad Hoc supports the Commission's efforts to ensure that NANPA and/or state commissions have the appropriate authority to depart from a rate center based utilization threshold when deemed necessary. Ad Hoc agrees with other commenting parties that the "safety valve" is necessary to ensure that carriers facing special circumstances can obtain sufficient numbering resources.[116] The flexibility provided by a "safety-valve" will ensure that carriers can respond to requests for numbers by end users. However, Ad Hoc and others are concerned that the Commission may adopt a set of detailed criteria, rather than delegating flexible authority to states and/or NANPA.[117] A detailed national policy will likely not allow states to address carrier and end user needs in a timely manner.

Using a rate center utilization rate to determine eligibility for growth numbering sources is not always effective. Specifically, AT&T identifies seasonal fluctuations (especially in the case of wireless providers) and promotional efforts as causes of surges in demand that may create a disconnect between utilization thresholds and carrier needs.[118] With the adoption of the safety valve mechanism, a waiver of the rate center based utilization threshold would provide sufficient numbering resources to

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[116] *See, e.g.*, Comments of Time Warner Telecom at 2; Comments of Ohio PUC at 28-29; Comments of Verizon at 2; Comments of ALTS at 18; Comments of AT&T at 15; Comments of Qwest at 6; Comments of State Group at 9.

[117] Comments of Ohio PUC at 28-29; Comments of Maine PUC at X.

[118] Comments of AT&T at 15.

carriers facing these types of fluctuations in demand.

The safety valve mechanism would also address the issue of assigning sufficient numbering resources to carriers that establish additional switches within the same rate center. In its comments, ALTS provides a descriptive explanation of the dilemma facing carriers that install a second switch in a rate center:

> [T]he provider installed a second switch in the large Phoenix rate area, and needed a code assigned in order to obtain a Location Routing Number ("LRN") for the new switch. A switch must have an LRN assigned to it in order to port numbers (including intra-switch porting to obtain numbers from the other switch in the rate area), and the LRN must come from a code assigned in the LERG to that switch code. Because of the Commission's rule that utilization must be determined at the rate center rather than switch level, the code request was considered a growth code request and was denied because the provider did not meet the utilization threshold for the rate area.[119]

The Florida PSC has also voiced concern that the current mechanism does not address rate centers with multiple switches, and requests that the Commission allow states to determine when waivers should be granted.[120]

Ad Hoc agrees with ALTS and the Florida PSC, and believes that the Commission's current reliance on rate center based utilization threshold requires a "safety valve" so as not to discourage carriers from expansion, nor discriminate against carriers that deploy multiple switches within a rate center. The use of a safety valve mechanism would provide carriers with the ability to secure the numbering resources required to provide services following interconnection of additional switches in a given

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[119] Comments of ALTS at 18.

[120] Comments of Florida PSC at 10.

rate center.

While Ad Hoc acknowledges the need for utilization thresholds and supports the goals of such measures, the Commission must allow NANPA and/or state commissions some latitude in their decisions in order to allow them to act appropriately when special circumstances arise. Failure to implement a safety valve may have the unintended effect of (1) discriminating against CLECs in favor of ILECs and incumbent wireless carriers who may already possess sufficient quantities of numbers; and (2) threatening the development of competition in the local market. By authorizing state public utility commissions to implement waivers of the rate center utilization rate, both carrier and consumer interests are protected.

CONCLUSION

In view of the foregoing, Ad Hoc respectfully urges the Commission to adopt number conservation policies that are consistent with these comments.

Respectfully submitted

Ad Hoc Telecommunications Users Committee

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CERTIFICATE OF SERVICE

I, Kristin Gosselin, hereby certify that a true and correct copy of the preceding Comments of the Ad Hoc Telecommunication Users Committee was served this March 5, 2001 via hand delivery and the Electronic Comment Filing System upon the following parties:

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