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

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200

REPLY COMMENTS OF SBC COMMUNICATIONS INC.

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SUMMARY

In these reply comments, SBC reiterates the positions it championed in the initial round. The comments generally support many of the points made by SBC to both optimize numbering resources, and to facilitate the acquisition of numbering resources by carriers to enable them to serve the legitimate needs of their customers. SBC continues its support of transitional overlays and its opposition to technology-specific overlays. In light of the need to permit state commissions to use transitional overlays in area code relief plans, SBC urges the Commission to act quickly to approve such overlays.

SBC takes exception to certain approaches enunciated by Cox Communications. In particular, SBC believes that Cox's approaches are without foundation and cannot be applied to all providers. SBC takes the position that rate center consolidation is a state issue and not a federal one. Regardless, in view of the Commission's refusal to reconsider its position that MTE and utilization threshold should be measured at the rate-center level, SBC opposes further rate-center consolidation.

In reference to the "related carriers" penalty by association this remains a bad idea whose time has not yet come. Nothing presented in the initial Comment round provides legal or factual support for the Commission's proposal to make "related carriers" liable for failing to comply with mandatory reporting requirements. Furthermore, because of concerns about the impact of reserved numbers on SBC utilization threshold, SBC continues to oppose extending number reservation beyond 180 days for a fee.

SBC joins the almost unanimous voice speaking against the proposed market-based approach to numbering resource optimization. No Commenter has provided a legal basis for the Commission's exercise of authority necessary to implement this extraordinary scheme. What's more, many Commenters suggest that, in addition to a want of authority, the plan suffers from a more serious defect: it will not in fact optimize

numbering resources. In view of this record, the Commission is advised to allow the regulatory mechanisms it has already put in place to work before actively considering this risky and questionable proposal.

Carriers should be allowed to recover costs associated with deploying number pooling. Suggestions that these costs are offset by delayed area code relief or through the deployment of LNP are mistaken. SBC stands by the cost data and the underlying rationale it submitted on February 14, 2001.

There is practically universal support for a safety-valve mechanism to guarantee carriers needed numbering resources. SBC proposes that any solution be simple, easy to understand, expeditious, and verifiable by audit. Neither the NANPA nor the PA should be placed in the position of making judgments about the numbering needs of service providers. In light of the importance of this issue, as it impacts the ability of carriers to compete on a level playing field, SBC urges the Commission to resolve this matter on an expedited and, if necessary, on a stand-alone basis.

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REPLY COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications Inc., on its own behalf and on behalf of its local exchange carriers,[1] (SBC) files these reply comments in response to the comments filed on February 14, 2001 to the Commission's Second Further Notice of Proposed Rulemaking[2] in this docket.

A. Service-Specific and Technology-Specific Overlays

Most state commissions support the review of the Commission's current prohibition of service-specific or technology-specific overlays (TSOs), but are disappointed that the only form being considered is a transitional overlay (TNO), as proposed by the wireless industry.[3] While state commissions appear to accept TNOs as an additional option for handling area code relief, they continue to express interest in permanent TSOs.[4] In addition, the National Association of State Utility Consumer Advocates (NASUCA) and the Ad Hoc Telecommunications Users Committee (Ad Hoc Committee) advocate TSOs under a misguided belief that they are a valuable numbering conservation measure.[5] SBC is puzzled by NASUCA's comment that TSOs

[1] These local exchange carriers include the Ameritech operating companies (Illinois Bell Telephone Company, Indiana Bell Telephone Company, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, and Wisconsin Bell Telephone Company), Nevada Bell Telephone Company, Pacific Bell Telephone Company, Southern New England Telephone, Southwestern Bell Telephone Company, and SBC Telecom.

[2] *In the Matter of Number Resource Optimization*, CC Docket No. 99-200, *Second Report and Order on Reconsideration in CC Docket No. 96-98 and CC Docket 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No, 99-200*, Commission 00-429 (rel. Dec. 29, 2000) (*Second Report & Order*).

[3] *See* Pennsylvania Public Utility Commission Comments, Attachment A, State Coordination Group Outline (SCG), reference to paras. 128-129.

[4] *See* Comments filed by New Hampshire Public Utilities Commission; Public Utilities Commission of Ohio at 6-29.

[5] *See* Ad Hoc Users Committee Comments at 2-3; Ad Hoc Committee Comments at 32.

will help extend the life of the NANP. The opposite is true.[6] A proliferation of TSOs will cause more NPAs to be activated, thus contributing to the accelerated exhaust of the NANP. SBC has clearly defined the adverse impact that TSOs will have on accelerating the projected exhaust of the NANP. [7]

SBC, along with other commenters,[8] opposes permanent TSOs because they are unreasonably discriminatory and impose significant competitive disadvantages on wireless carriers.[9] SBC also opposes the use of TSOs because they will accelerate the exhaust of the NANP.[10] State commissions, which advocate TSOs, fail to acknowledge the impact that wireless local number portability (LNP) and number pooling will have on permanent TSOs. SBC described this impact in its initial comments[11] and continues to believe that the state commissions have not fully considered the impact of wireless LNP and number pooling. The record in this docket does not justify continuing the debate on allowing permanent TSOs. However, SBC recommends adoption of TNOs as a temporary area code relief alternative, subject to the specific conditions outlined in the Joint Wireless Commenters November 15, 2000

[6] To further illustrate NASUCA's and the Ad Hoc Committee's lack of understanding, they allege that all-service overlays provide incumbent local exchange carriers a competitive advantage over competitive local exchange carriers. Nothing could be further from reality. First, the industry, which includes CLECs, has recommended overlays in many of the large metropolitan areas within SBC's region without any reference to the competitive arguments raised by NASUCA or Ad Hoc Committee. Secondly, overlays have been implemented in Dallas, Ft. Worth, Houston, Denver, Akron, Atlanta, Miami, Philadelphia, Portland, New York City, Miami, and the entire state of Maryland with no adverse competitive impact. Others are planned in other major cities without any resistance from CLECs. Finally, the deployment of number pooling in the top 100 MSAs will mitigate the competitive concerns alleged by NASUCA and the Ad Hoc User Committee, if they actually existed, which they do not.

[7] *See* SBC Comments at 1-2.

[8] *See* AT&T Comments at 4; Qwest Comments at 11-12; Verizon Comments at 6-8; BellSouth Comments at 3.

[9] *See* Cellular Telecommunication and Internet Association at 6; Voicestream Comments at 4.

[10] *See* SBC Comments at 2.

[11] *Id.* at 2.

Ex Parte.[12] SBC continues to believe that TNOs strike the proper balance between required area code relief, optimal use of the NPA resource, and the needs of telecommunications subscribers.[13] In order for TNOs to provide state commissions any benefit, the Commission must act expeditiously to allow TNOs because their viability is currently limited with the expiration of the wireless LNP forbearance. With this in mind, the Commission should address this area code relief option as a separate and independent issue.

B. The Rate Center Problem

SBC disagrees with Cox Communications' discussion of the rate center problem.[14] Cox would have the Commission believe that associating the existing VH structure with individual telephone numbers, as opposed to the existing NPA-NXX level, is a simple task that could easily be accomplished. In fact, Cox provides no detail or analysis of their "solution" and Cox appears to be blithely ignorant of the ramifications of its proposal. Cox's proposal strikes at the heart of the rating and routing methodology used by the entire telecommunications industry in the NANP. As Cox points out: "The distance sensitive call rating/billing systems existing today, and the industry-wide common input data necessary to use them, demand that NXX codes be assigned to one and only one rate center."[15] To fully assess the impact of Cox's proposal would require a thorough study of changes to operational support systems, billing systems, 911 systems,[16] customer education, and the like. Cox fails to provide any such analysis. Several commenters

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[12] *See* Letter from Judith St. Ledger-Roty and Todd D. Daubert, Kelley Drye & Warren to Magalie Roman Salas, Secretary, FCC (November 15, 2000).

[13] The Connecticut Department of Public Utility Control (CTDPUC) has expressed a willingness to trial the concept immediately. See CTDPUC Comments at 3.

[14] *See* Cox Comments at 6-8. ("Associating the VH coordinates of a rate center (or central office through the number portability system LRN) with *each telephone number* would provide the optimum telephone number resource utilization solution by allowing the numbers within an NXX to spread over an entire area encompassing many rate centers, while maintaining the integrity of the historical distance sensitive call rating mechanism.")(emphasis added).

[15] *See* Cox Comments at 6.

[16] *See* NENA Comments at 2.

suggest a federal workshop or review of the rate center issue.[17] In light of analysis already available to interested parties, SBC believes it is unnecessary. As pointed out in their comments, the Public Utility Commission of Texas created a Number Conservation Implementation Team (NCIT) in January 1998 to study various number conservation methods, including rate center consolidations.[18] This group studied rate center consolidation in the abstract, as well as applied to Texas specifically. The NCIT study presented nine different rate center consolidation options, each requiring a different study and resulting in different impacts. Each of these nine options was then applied to specific areas of Texas. Some of the options were implemented; some were not. This study is available for any state or other interested party to use and apply to specific rate centers within any jurisdiction. Creation of a federal study group would provide little if any new information for states to consider when studying rate center consolidation. The NCIT report of rate center consolidation lays out the framework for rate center consolidation — the application of this framework must be left to the state commissions to work with the industry.

Numerous other states have already reviewed rate center consolidation options. Missouri, Colorado, and Minnesota are three states where such consolidation has already been implemented. Numerous other states, including Michigan, Indiana, and Georgia, have or are currently studying consolidation within their jurisdictions. SBC urges the Commission to allow the states to continue their efforts to consolidate rate centers as appropriate in their individual jurisdictions. Rate center consolidation is, in SBC's view, a state responsibility, not a federal one.

As SBC pointed out in its initial comments, SBC has long been an advocate of rate-center consolidation; however, as long as the MTE requirement and utilization thresholds are maintained *at the rate-center level*, without a safety valve, SBC can no longer support rate-center

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[17] *See* California PUC Comments at 7; Michigan PSC Comments at 5; Florida PSC Comments at 7; Maine PSC Comments at 2.

[18] *See* Texas PUC Comments at 9-10.

consolidation in any of its serving regions. Given the Commission's existing rules, unless the Commission provides a reasonable safety valve mechanism for obtaining needed numbering resources in rate centers where a bona fide request for numbers is made by a customer and for which SBC can not meet the customer demand, SBC reluctantly withdraws its long-time support for the rate center consolidation option.[19]

C. Liability Of Related Carriers

The overwhelming response from the commenters is that they oppose any suggestion to withhold numbering resources from a carrier when a related carrier is guilty of failing to comply with the Commission's mandatory reporting requirements.[20] There is very little support for this proposal and what little there is tends to be lukewarm and weighed down with caution. The comments in the SCG outline fail to explain the legal basis for any Commission authority to impose the recommended penalty or to explain how the penalty is consistent with American jurisprudence.

Regardless of the nobility of the ultimate goal — to make parent companies play a more active role in number conservation efforts — the Commission lacks authority to hold a non-culpable carrier responsible for the acts of its siblings. The Commission already has sufficient power to penalize the guilty and such power should be enough to obtain compliance with the Commission's rules. There is nothing in the record that suggests that this extraordinary remedy is needed, much less justified or authorized.

[19] Qwest Communications points out the same problem in its comments on page 4 as does BellSouth on pages 11-17 of its comments.

[20] *See* AT&T Comments at 10; BellSouth Comments at 17-19; Cingular Comments at 11-14; Cox Communications Comments at 8; CTIA Comments at 15-17; Verizon Comments at 17-19; Voice Stream Comments at 13-5.

E. Fee For Number Reservations

Several parties filed comments regarding the issue of charging for reserved telephone numbers.[21] At least one party opposes fees for reserving telephone numbers and believes that reserving numbers should be indefinite.[22] State commissions, on the other hand, propose that extensions be limited in duration.[23] They also argue that the 180-day reservation period may be too long and have adverse impacts on the exhaust of the NANP. Nevertheless, the state commissions do not offer any data to substantiate these beliefs. To the contrary, numbers held in reserved-number status represent only a small fraction of the numbers held in inventory by the entire industry throughout the United States. According to a study released in December by Industry Analysis Division of Common Carrier Bureau, Federal Communications Commission, only two to three percent of all the numbers in carrier inventory are classified as reserved.[24] Such a low percentage of numbers held in reserved status will have little impact on the projected exhaust of the NANP.[25]

Notwithstanding the relative small percentage of numbers held in reserved state, SBC remains concerned about the adverse impact that reserved numbers will have in meeting the Commission's utilization threshold unless the Commission adopts a reasonable safety valve

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[21] *See* SCG matrix reference to ¶ 152. See Focal Communications Comments at 5-6; Qwest Comments at 4-6; Verizon Comments at 3; WorldCom Comments at 11; Ad Hoc Telecommunications Users Committee Comments at 23; The Association for Telecommunications Professionals in Higher Education Comments at 9-11.

[22] *See* The Association for Telecommunications Professionals in Higher Education Comments at 6.

[23] *See* SCG matrix reference to ¶ 152.

[24] *See Numbering Resource Utilization in the United Status* released December 2000 by the Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, Table 1.

[25] It is ironic that some state commissions are attempting to severely curtailing the use of reserved numbers, which are requested by consumers, to allegedly extend the life of the NANP, yet advocate TSOs, which SBC believes will have a far greater adverse consequence on exhausting the NANP.

procedure. Therefore, until the utilization calculation is changed or a reasonable safety-valve procedure is adopted, SBC must oppose the NANC's recommendation for extending telephone number reservations beyond 180 days for a fee.[26]

H. Developing Market-Based Approaches For Optimizing Numbering Resources

There is no real support for the proposal to develop a market-based approach to optimizing number resources. On the whole, the telecommunications industry opposes this approach.[27] The industry is quick to point out the Commission's total lack of authority for this proposal. Moreover, the industry challenges the workability of the idea. That is, the proposal will not actually optimize number resources because service providers would pass through any fees associated with telephone numbers. Furthermore, the FCC's proposal would significantly increase societal costs.[28]

The support of the state commissions is little more than tepid. They do not object to exploring the concept but not at the expense of the mechanisms, the Commission has already proposed to optimize number resources.[29] Having said this, there is no proffered legal authority

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[26] SBC continues to believe that the Commission's proposal to assess a fee even for reserved numbers is not permitted in the 1996 Telecommunications Act. *See* SBC Comments at 10-12.

[27] *See* Ad Hoc Committee Comments at 25-30; Allegiance Telecom Comments at 2-13; ALTS Comments at 15-17; Association of Communications Enterprises Comments at 2-11; AT&T Comments at 20-23; BellSouth Comments at 22-27; Cingular Comments at 21-25; CTIA Comments at 9-13; Level 3 Comments at 7-10; NTCA Comments at 4-5; OPASTCO Comments at 5-6; PCIA Comments at 13-18; Qwest Comments at 14-22; Rural Cellular Association Comments at 2-4; USTA Comments at 2-4; Verizon Comments at 19-33; VoiceStream Comments at 16; WorldCom Comments at 12-17.

[28] It is SBC's understanding that the FCC proposes that all telephone numbers allocated to service providers would be assessed a fee. These proposals will significantly increased consumers' monthly fees for local service. There are approximately 137,795 NXXs assigned or 1.378 billion numbers. Assuming a monthly assessment of $0.25 would equate to $4.1 billion annually. Service providers without a pass through cannot sustain the magnitude of this assessment. Thus, consumers' cost for telephone service will be significantly increased.

[29] State Coordination Group Outline, ¶¶ 158-178 ("[S]tates do not object to exploration of a market-based approach to the allocation of numbering resources…"); California Public Utilities Commission at 12 ("[T]he FCC should not attempt to bootstrap the language in §251(e)(1) to create authority to develop a market-based number allocation scheme."); New York State

under which the Commission can act. In short, what little tepid support there is for the idea is not backed up with citation to statutory authority for Commission's power to create the market-based approach.

I. Recovery Of Pooling Shared Industry And Direct Carrier-Specific Costs

NASUCA and the Ad Hoc Committee argue that the industry should not be allowed to recover costs for deploying number pooling because in their opinion the incremental cost associated with number pooling should be completely offset by the cost savings associated with eliminating area code relief. First, number pooling does not eliminate the need for area code relief — at best, it only delays it. What's more, the impact that number pooling will have on delaying the projected exhaust date of an area code is highly speculative. When number pooling does play a role in delaying the need for area code relief, it is rarely the sole reason for the delay. Other factors include state ordered rationing and lottery procedures, federal/state imposed utilization threshold requirements, and similar mechanisms. Although SBC can demonstrate that number pooling is not the only factor impacting area code exhaust projections, it took into account costs savings associated with deferring area code relief, but not its elimination.[30] These savings are included in the detailed cost study data it filed on February 14, 2001 pursuant to the Commission's request.

Second, NASUCA maintains that the costs associated with number pooling have already been recovered through the deployment of LNP.[31] SBC acknowledges that number pooling will use the same architecture used to provide LNP; however, there are significant additional costs

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Department of Public Service at 6 ("While NYDPS does not object to examining market-based approaches to numbering issues, this effort should not divert attention from the number efficiency mechanisms that are currently underway (e.g. national pooling rollouts, audits, reclamation's.")

[30] SBC noted in its initial Comments that estimating the cost savings to area code relief attributable to number pooling is somewhat speculative. There are many unknown and unknowable variables that can effect the estimate.

[31] *See* NASUCA Comments at 33.

associated with deploying number pooling that are not included in the cost recovery associated with LNP. These costs include provisioning efficient data representation (EDR), pooling administrator costs, NPAC 3.0 costs, and others.[32] These and other costs directly related with the deployment of number pooling were included in SBC's cost study submission of February 14, 2001, and are in concert with the cost-recovery requirements specified by the Commission in its *Second Report & Order*.

K. Waiver Of Growth Numbering Requirements

SBC endorses the comments suggesting adoption of a safety-valve mechanism to supplant the existing waiver process. Without a safety valve, the Commission's own rules put customers in jeopardy of being denied services from the providers of their choice for lack of numbering resources. Most commenters recommend the Commission create a safety-valve mechanism; the differences lie in the form of the mechanism.

Voicestream Wireless[33] and Winstar Communications[34] suggests a three-month inventory of numbers should be an adequate showing that additional numbering resources are required. SBC recommends, a safety-valve mechanism addressing more than just the MTE issue. Depending on the type of provider, numbers are assigned and available for customer use in different ways. This is one reason why SBC recommended that MTE requirement and utilization thresholds be calculated at the lowest code assignment point.[35]

Cox claims that "[c]arriers who have multiple switches in a single rate center can port unassigned numbers between those switches to alleviate temporary shortages."[36] First, in making

[32] *See* SBC Comments at 27 for a more detailed explanation of these costs.

[33] *See* Voicestream Comments at 10.

[34] *See* Winstar Comments at 9.

[35] Comments of SBC Communications Inc., CC Docket No. 99-200, pp. 7, 53, 65 (July 30, 1999). SBC *ex parte*, October 16, 2000. SBC will be filing a petition for reconsideration urging the Commission to reconsider the need for a two-prong test.

[36] *See* Cox Comments at 16.

this claim, Cox makes the assumption that a shortage in one switch within a multiple-switch rate center is "temporary." It may not be. It is not uncommon for ILECs in metropolitan areas to have single rate centers that have 20 or more switches. This is particularly true in consolidated rate centers.[37] A shortage of numbers in a single switch in these large rate centers may be the result of normal growth and would represent a permanent requirement until a new NPA-NXX could be assigned to this switch. Second, as BellSouth pointed out in its comments, porting unassigned numbers from one switch to another is not available to all providers "in the absence of pooling, numbers cannot be shared among switches.... Only after the functionalities of both number portability and number pooling are fully in place will it be possible for a carrier to port numbers between its switches."[38] SBC supports the BellSouth comments and suggests Cox has once again suggested a "solution" to a problem that simply does not work for all providers.

Several of the state commissions support a safety-valve mechanism[39] and suggest that the states are in the best position to determine when exceptions to the MTE requirement or the utilization threshold are justified. "We believe that we should have the discretion to waive the utilization rate requirements if specific circumstances warrant."[40] The Ohio Commission "believes that a 'safety valve' is an exception rather than a rule." The Commission should continue to allow the Ohio Commission to address such infrequent requests on an individual case basis rather than mandating a set of criteria for a 'safety valve' that may not be appropriate in

[37] As pointed out in SBC's comments, the Dallas rate center has 36 switches located within its boundaries.

[38] *See* BellSouth Comments at 16-17.

[39] *See* Pennsylvania PUC Comments at 8; Maine PUC Comments at 7; Ohio PUC Comments at 28; Florida PSC Comments at 10; Texas PUC Comments at 20.

[40] *See* Maine PUC Comments at 7.

every circumstance."[41] The Texas Commission recommends that "state commissions...should be given the authority rather than NANPA."[42]

SBC is encouraged that so many commenters support the need for a safety valve. SBC supports the need for an alternative mechanism that can be used to secure additional numbering resources to meet a customer's bona fide request for service. Neither NANPA nor the Pooling Administrator (PA) should be placed in the position of making judgements about the numbering "needs" of service providers. What's more, as this issue impacts the ability of carriers to compete on a level playing field in the marketplace and, therefore, goes to the heart of the Telecommunications Act of 1996, SBC urges the Commission to consider this issue on an expedited basis and, if necessary, on a stand-alone basis. Implementation of a safety-valve mechanism should not await resolution of the other topics discussed in the Commission's *Second Report & Order*.

SBC recommends that a provider be required to meet one, but not both, of the Commissions standards. If the carrier can meet *either* the utilization threshold or the MTE criteria, SBC supports a documentation process, which would be subject to record retention obligations and would be subject to audit, allowing the carrier access to needed numbering resources.[43] When the service provider submits its code/block request to NANPA or the PA, the provider should provide all required data on the CO Code or Block Request forms. NANPA or the PA should immediately assign the requested resources to the provider.

In cases where a provider can not meet either the utilization threshold or the 180/90-day MTE calculation, the provider should request a waiver of the rules from the state commission.

[41] *See* Ohio PUC Comments at 29.

[42] *See* Texas PUC Comments at 20.

[43] *See* SBC Comments pp. 30-31.

Respectfully submitted,

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March 7, 2001

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I, Regina Ragucci, do hereby certify that on this 7th day of March 2001, Reply Comments of SBC Communications, Inc. in CC Docket No. 99-200, was served first class mail - pre-paid postage to the parties attached.

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