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

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

To: The Commission

REPLY COMMENTS OF VOICESTREAM WIRELESS CORPORATION

VoiceStream Wireless Corporation ("VoiceStream") submits its reply comments on the Commission's *Second Further Notice of Proposed Rulemaking* ("*Second Further Notice*") in the above-captioned proceeding.[1]

I. THE COMMENTS REFLECT WIDESPREAD SUPPORT FOR ALLOWING STATES TO IMPLEMENT PHASED-IN AREA CODES AS PROPOSED BY THE JOINT WIRELESS COMMENTERS

In its opening comments, VoiceStream reemphasized its full support for the proposal for phased-in area code relief that the Joint Wireless Commenters ("JWC") filed with the Commission on November 15, 2000. Like VoiceStream, the vast majority of parties who addressed the JWC proposal in their comments urged the Commission to allow states to implement phased-in overlays as outlined in the JWC proposal.[2] VoiceStream particularly

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

2 *See, e.g.*, AT&T Comments at 4-8; BellSouth Comments at 3-10; California Comments at 3; Cingular Wireless Comments at 6-7; Connecticut Comments at 3, 10; CTIA Comments at 6-9; Florida Comments at 1,4; Maine Comments at Attach.; Maryland Comments at Attach.; Michigan Comments at 2; New Hampshire Comments at 2-3; New York Comments at 2; Pennsylvania Comments at Attach.; Ohio Comments at 5; Texas

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welcomes the support of the Connecticut Department of Public Utility Control, which asks the Commission for authority to implement phased-in area code relief on a trial basis as soon as possible.[3] Rather than allowing only Connecticut to implement a phased-in area code relief trial, VoiceStream urges the Commission immediately to allow all states the option of implementing phased-in area code relief as proposed by the JWC.

Because time is of the essence, VoiceStream urges the Commission not to wait until it adopts a more comprehensive order in this proceeding to authorize states to implement phased-in area code relief, but rather to grant an immediate blanket waiver to states that comply with all of the conditions specified in the JWC proposal. Moreover, there is no need for the Commission to limit this blanket waiver solely to "trials" of phased-in area code relief because the JWC proposal is optional for the states, so no state will be forced to implement phased-in overlays. VoiceStream is confident that other states will follow Connecticut's lead when they learn the potential benefits of phased-in overlays as proposed by the JWC.

VoiceStream agrees with the comments of most parties that there is absolutely no basis for lifting the Commission's prohibition of long-term technology- and service-specific overlays.[4] The Commission banned long-term technology- and service specific overlays because

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Comments at 7; SBC Comments at 3; Verizon Comments at 6; Verizon Wireless Comments at 5-13; VoiceStream Comments at 2-6; WorldCom Comments at 3.

3 Connecticut Comments at 3, 10.

4 *See, e.g.,* ALTS Comments at 3; AT&T Comments at 4-8; BellSouth Comments at 3; Cingular Wireless Comments at 5; CTIA Comments at 6-9; Focal Comments at 2-4; Qwest Comments at 10-11; SBC Comments at 1; Verizon Comments at 6; Verizon Wireless Comments at 5-13; VoiceStream Comments at 2-6; Winstar Comments at 1; WorldCom Comments at 2-5.

they are inherently discriminatory.[5] There is nothing advanced in the record that would justify the Commission abandoning its policy position of opposing long-term technology- and service-specific overlays.

From a numbering optimization perspective, long-term technology- and service-specific overlays will not improve the efficiency with which carriers utilize numbers. First, the only numbers "created" or "saved" by the implementation of a long-term technology- or service-specific overlay are the numbers that are made available by implementation of a new NPA. The exact same relief can be achieved by implementing an all-services overlay.[6] Second, technology- and service-specific overlays could lead to stranded numbering resources, because not all carriers and operators would have access to the long-term technology- or service-specific overlay NPA. If a service-specific overlay NPA were implemented only for the use of CMRS, other wireline carriers and operators could not be assigned NXXs out of the service-specific overlay NPA once the existing NPA exhausted. Thus, the state would have to implement another NPA to provide relief for wireline providers even if the service-specific NPA were not exhausted. Moreover, if seven-digit dialing were maintained in the existing NPA or in the additional wireline NPA, the NXXs that are already in use would have to be protected in the new NPA(s) and thus would be unavailable for use by other customers. Therefore, long-term technology- and service-specific overlays would exacerbate the prime cause of inefficient

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

6 Although some states claim that technology-specific or service-specific overlays will increase the efficiency with which carriers and operators utilize numbering resources because they can be implemented over much larger areas, the same benefits can be achieved by implementing all-service overlays over the same larger area. Moreover, the benefits will be ten-fold if an all-service overlay is implemented because all carriers and operators will have access to the new NPA, not just one group of carriers or operators.

numbering utilization: stranded numbering resources. Accordingly, VoiceStream strongly opposes those parties who urge the Commission to lift its prohibition on long-term technology- and service-specific overlays.[7]

VoiceStream notes that only a few parties opposed the JWC proposal, and these parties based their opposition on either apparent misunderstandings of the JWC proposal or skepticism that the JWC proposal would not be adopted in its entirety. ALTS and Focal are concerned that non-LNP carriers and operators would have unrestricted access to numbering resources while LNP-capable carriers would be forced to continue under rationing.[8] This is not possible under the JWC proposal because rationing would be discontinued under phased-in area code relief and LNP-capable carriers would join non-LNP-capable carriers and operators in the new NPA immediately upon exhaust of the underlying NPA. ALTS also expressed concern that phased-in overlays might lead to the premature implementation of area code relief.[9] This is not possible under the JWC proposal because states can only implement phased-in area code relief where area code relief must be implemented in the near future. Cox opposes phased-in overlays because of its concern that they would take the option of geographic splits away from states.[10] Cox's concern is unfounded because phased-in overlays are entirely voluntarily under the JWC proposal and thus would add to – rather than subtract from – the options available to state commissions. VoiceStream agrees with the many commenters who urge the Commission

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7 *See, e.g.,* Ad Hoc Comments at 1-2, 6-9; California Comments at 3; Connecticut Comments at 8-9; Cox Comments at 2-4; Florida Comments at 4-5; Illinois Comments at 4; Michigan Comments at 3; NASUCA Comments at 7; New Hampshire Comments at 1; New York Comments at 2; Ohio Comments at 6-8; Texas Comments at 7.

8 ALTS Comments at 4-5; Focal Comments at 4.

9 ALTS Comments at 4-5.

10 Cox Comments at 2-3.

immediately to adopt the JWC proposal in its entirety in order to address efficient and timely NPA relief.[11]

II. THE MAJORITY OF COMMENTS SUPPORT THE CREATION OF A SAFETY VALVE IN ORDER TO MEET THE REQUIREMENTS OF THE 1996 ACT

In its comments, VoiceStream emphasized the need for a safety valve so that carriers and operators which have a three-month or less supply of numbering resources can obtain the numbering resources they need even if they have not yet met the applicable utilization threshold.[12] The majority of the parties that addressed the issue agree with VoiceStream that a safety-valve mechanism is crucial in order to ensure that no consumers, carriers or operators are denied timely access to needed numbering resources.[13] Indeed, a safety valve mechanism is necessary to ensure that the Commission meets its obligation under Section 251(e) to make "numbers available on an equitable basis,"[14] because some carriers and operators will run out of numbers, under certain circumstances, before they can complete the waiver process. Section 251(e) is violated each time a carrier or operator is denied access to the numbering resources it needs to serve consumers. This discriminatory impact hits the fastest growing operators, usually

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11 *See, e.g.,* AT&T Comments at 4-8; BellSouth Comments at 3-10; Cingular Wireless Comments at 6-7; CTIA Comments at 6-9; SBC Comments at 3; Verizon Comments at 6; Verizon Wireless Comments at 5-13; VoiceStream Comments at 2-6; WorldCom at 3.

12 VoiceStream Comments at 8-10.

13 *See, e.g.,* Ad Hoc Comments at 36-38; ALTS Comments at 18-19; AT&T Comments at 15-17; BellSouth Comments at 31-32; Cingular Comments at 25-27; CTIA Comments at 4-6; Florida Comments at 11-12; Focal Comments at 7; Level 3 Comments at 14; Pennsylvania Comments at 8; PCIA Comments at 13; Ohio Comments at 28-29; Qwest Comments at 6-9; SBC Comments at 29-31; Time Warner Comments at 7-9; Verizon Comments at 2; Verizon Wireless Comments at 14-16; Winstar Comments at 9-10.

14 47 U.S.C. § 251(e)(1).

the newer market entrants, the hardest. The safety valve mechanism is necessary to assure a robust competitive market.

The safety valve that VoiceStream proposed in its comments also addresses the concerns of those states that do not oppose the creation of a safety valve but urge the Commission to ensure that a safety valve does not undermine the utilization threshold rules.[15] As VoiceStream explained in its comments, a three-month supply of numbering resources is the minimum amount of inventory that a carrier or operator requires to ensure that there is just enough time both to process the application and to activate the code when granted.[16] A safety valve mechanism that allows just enough time to process applications and activate codes when granted will not undermine the utilization threshold. Moreover, the safety valve that VoiceStream proposes would enable carriers and operators to serve their customers, as required by the Act, and reduce the burden on carriers and operators, state public utility commissions and the Commission by eliminating the need for waivers and expedited requests.

VoiceStream disagrees with the suggestion by Cox and New Hampshire,[17] the only parties who oppose a safety valve mechanism, that the existing waiver procedures are adequate to prevent potential harm caused by utilization thresholds and to ensure that the Commission meets its obligations under Section 251(e)(1). VoiceStream emphasizes that the need for a safety valve mechanism is real, not speculative, because there are circumstances in which a carrier or operator experiences such high unexpected demand that it does not have time

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15 *See, e.g.,* California Comments at Attach.; Connecticut Comments at Attach.; Maine Comments at Attach.; Maryland Comments at Attach.; Michigan Comments at Attach.; New York Comments at Attach.; Texas Comments at Attach.; California Comments at Attach.

16 *See* VoiceStream Comments at 8.

17 *See* Cox Comments at 16; New Hampshire Comments at 9.

to seek relief through the traditional waiver process. As envisioned by Congress and the Commission, VoiceStream has been engaged in broad deployment and promotion of its wireless services in its existing and new markets. For example, one of its markets in the Central region had a 28.5 percent subscriber increase in the fourth quarter of 2000, far exceeding its forecasted gain. In another market in its Northeast region, VoiceStream increased its subscriber base by nine percent in the month of December alone. Historical growth trends and utilization threshold restrictions may work for incumbent carriers and operators with large customer bases, but they are not suitable for carriers and operators that are growing rapidly from small customer bases. Accordingly, VoiceStream urges the Commission to adopt mechanisms, such as the safety valve mechanism, that are flexible enough to accommodate real world situations where carriers and operators have rapid growth and different levels of customer bases.

III. THE COMMENTERS EXPRESSED NEARLY UNIVERSAL OPPOSITION TO "MARKET-BASED" ALLOCATION SYSTEM FOR THE FIFTH TIME IN THIS PROCEEDING

The comments in this proceeding reflect nearly universal opposition to market-based approaches for allocating numbering resources, whether this involves the creation of a primary market, a secondary market, or both.[18] The basis for this nearly universal opposition is primarily two-fold. First, most commenters agree that the Commission lacks the authority to

[18] *See, e.g.,* Ad Hoc Comments at 2-4; Allegiance Comments at 2-7; ACE Comments at 2-11; ALTS Comments at 16-17; AT&T Comments at 21; BellSouth Comments at 31-32; California Comments at 12 (explaining that FCC lacks statutory authority); Cingular Comments at 21-22; Cox Comments at 10-11; CTIA Comments at 9-13; Focal Comments at 6-7; Level 3 Comments at 8-10; Maryland Comments; NTCA Comments at 4-5; OPASTCO Comments at 5; PCIA Comments at 14-18; Qwest Comments at 15-16; RCA Comments at 6-7; SBC Comments at 13-24; Time Warner Comments at 2-7; USTA Comments at 2-3; Verizon Comments at 10; Verizon Wireless Comments at 19-20; Winstar Comments at 8; WorldCom Comments at 12.

implement market-based allocation systems, as more than one FCC Commissioner recognized during the open meeting where the *Second Further Notice* was adopted.[19] Second, most commenters recognize that market-based allocation systems are inherently discriminatory and fundamentally inconsistent with efficient numbering optimization measures.[20] For these reasons, VoiceStream supports the suggestion of the New York Public Service Commission, SBC and others that the Commission should give the numbering optimization measures it has recently adopted a chance to operate before considering market-based allocation systems. Study of the impact of the new measures should prove that market-based allocation systems are unnecessary.

IV. MANY COMMENTERS AGREE THAT THE COMMISSION SHOULD SPONSOR WORKSHOPS AND HEARINGS TO EXPLORE FURTHER RATE CENTER CONSOLIDATION

The comments reflect vast support across all industry segments for revenue neutral rate center consolidation.[21] Many carriers, operators and states agree that one of the best

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19 *See, e.g.,* Allegiance Comments at 2-4; ACE Comments at 2; ALTS Comments at 16-17; ACE Comments at 2; AT&T Comments at 21; BellSouth Comments at 31-32; California Comments at 12 (explaining that FCC lacks statutory authority); Cingular Comments at 21; Cox Comments at 10-11; CTIA Comments at 9-10; Focal Comments at 6-7; Level 3 Comments at 8-9; California Comments at 12; Level 3 Comments at 8-9; NTCA Comments at 4-5; PCIA Comments at 14-18; Qwest Comments at 15-16; SBC Comments at 13-24; Time Warner Comments at 2-4; USTA Comments at 2-3; Verizon Comments at 10; Verizon Wireless Comments at 19-20; Winstar Comments at 8; WorldCom Comments at 12.

20 *See, e.g.,* Ad Hoc Comments at 2-4; Allegiance Comments at 4-7; ACE Comments at 10-11; ALTS Comments at 16-17; AT&T Comments at 21; BellSouth Comments at 31-32; Cingular Comments at 22; CTIA Comments at 12-13; Level 3 Comments at 9-10; OPASTCO Comments at 5; PCIA Comments at 14-18; Qwest Comments at 15-16; RCA Comments at 6-7; Time Warner Comments at 5-7; Verizon Comments at 10; Verizon Wireless Comments at 19-20; Winstar Comments at 8; WorldCom Comments at 12.

21 *See, e.g.,* Ad Hoc Comments at 16-22; Allegiance Comments at 13-15; Level 3 Comments at 13; Metrocall Comments at 10-12; NASUCA Comments at 13; PCIA Comments at 4-5; SBC Comments at 3; VoiceStream Comments at 31-32; WinStar Comments at 3.

ways to foster further rate center consolidation is for the Commission to sponsor explicit studies through NANC as well as through workshops and hearings in order to identify the benefits on NANP exhaust as well as its true costs.[22]

Detailed studies of rate center consolidation on a NPA by NPA basis most likely will confirm that it is one of the most effective ways to achieve efficient number utilization.[23] Rate center consolidation already has been an effective means for improving the efficiency with which carriers and operators utilize numbering resources where it has been implemented. For example, Connecticut's reduction of the number of rate centers from 115 to 86 reduced the rate at which available NXX codes were depleted and increased the quantity of available NXX codes and telephone numbers associated with those codes.[24] Other states, including Colorado and Georgia, also have had similar success in directing rate center consolidation. Moreover, detailed studies of rate center consolidation may well prove that the long run incremental cost of rate center consolidation revenue adjustments will be far less to the consumer than the long run incremental cost of NANP expansion. Under no circumstances, however, should Commission sponsored workshops, hearings, or other investigations into rate center consolidation be allowed to interfere with ongoing state efforts to consolidate rate centers. Rather, the Commission should only sponsor workshops or hearings in states that are not actively considering further rate center

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22 *See, e.g.,* ALTS Comments at 9; PCIA Comments at 5-6; California Comments at 7; Florida Comments at 7. Even Cox Communications who believes that rate center consolidation is only a short-term solution to number exhaust suggests that the Commission require states to submit a plan for consolidation or explain why such consolidation cannot be implemented. *See* Cox Comments at 7-8.

23 *See* Winstar Comments at 3.

24 *DPUC Review of Management of Telephone Numbering Resources in Connecticut,* Docket No. 96-11-10 RE1 (Sept. 22, 1999)

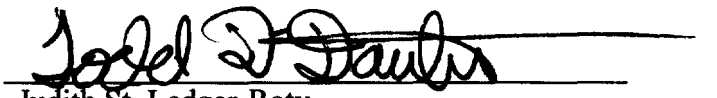
consolidation.[25] Finally, VoiceStream urges the Commission to amend its rules to allow carriers and operators to calculate utilization rates on the lessor of a switch or rate center basis, in rate centers containing multiple switches. This will remove a barrier to carrier and state support for rate center consolidation.[26]

CONCLUSION

For the foregoing reasons, VoiceStream urges the Commission to adopt the measures proposed in its comments, as amplified in these reply comments.

Respectfully submitted,

VoiceStream Wireless Corporation



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25 *See, e.g.,* New Hampshire Comments at 5.

26 *See* BellSouth Comments at 12-14; SBC Comments at 3-7 (stating that it generally supports rate center consolidation if utilization calculated at the switch level).

CERTIFICATE OF SERVICE

I, Michelle L. Arbaugh, hereby certify that I have caused a copy of the foregoing "Reply Comments of VoiceStream Wireless Corporation" to be served on this 7th day of March, 2001, via hand delivery, upon the following:

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