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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
	)	

AT&T CORP. COMMENTS ON PETITIONS FOR RECONSIDERATION

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SUMMARY

The petitions for reconsideration of the NRO Order make clear that there is broad support for reconsideration of those aspects of the NRO Order that AT&T addressed in its petition. An array of ILECs, CLECs, wireless carriers and end users agree that the 45-day limit on number reservations should be revised. Both carriers and end users also urge the Commission to revise the five-day limit on "pending" status, while other petitions parallel AT&T's request for reconsideration of the NRO Order's treatment of intermediate numbers.

In addition to the issues raised in its own petition, AT&T comments on the requests for reconsideration or clarification of the order as follows:

- AT&T strongly supports BellSouth's request that the Commission take affirmative steps to ensure that the rollout of state thousands block number pooling ("TNP") trials does not exceed the NRO Order's limit of three NPAs per month per NPAC region. Although the order found that exceeding this limit could "cause network disruptions," the Common Carrier Bureau has now authorized twenty-three states to conduct pooling trials without requiring the relevant state commissions to coordinate their efforts so as to comply with the Commission's cap. Indeed, the Bureau's most recent waiver granted twelve states the power to conduct interim TNP trials, but failed even to acknowledge the NRO Order's limit or comments that raised that issue.

- The Commission should clarify or reconsider its sequential numbering requirement. The NRO Order does not provide adequate guidance for carriers' operations or state commissions' enforcement decisions. The Commission should clarify that a carrier may open a new thousands block after it has used a specified percentage of numbers available for assignment in previously opened blocks.

- AT&T supports Verizon Wireless' request that the Commission reconsider the order's ruling that carrier-specific NPA-wide utilization data is not confidential. The Commission has conferred confidential treatment on such information in the past, and nothing in the record provides any basis to change this policy. Compiling information from multiple rate centers into NPA-wide data does not sufficiently safeguard competitively sensitive information. Indeed, the Local Competition and Broadband Reporting Order, issued one day before the NRO Order, ruled that wireless carriers could designate as confidential "state-by-state subscriber counts" -- data that is, in most cases, far more geographically "aggregated" than NPA-wide data.

- AT&T does not oppose requests for clarification that state commissions may obtain carrier-specific data from the NANPA, and that the NANPA must notify state commissions in advance of all code and block requests for their state. If the Commission grants such relief, however, it should make clear that a state commission does not have the right to obtain information pertaining to states other than its own.

- The Commission should not defer the deadline by which state pooling trials must conform to national standards. In requiring state trials to comply with national standards by September 1, 2000, the NRO Order weighed the potential innovations that might be gained by allowing states to experiment with disparate pooling regimes, but correctly concluded that "uniform standards for thousands-block number pooling are necessary to minimize the confusion and additional expense related to compliance with inconsistent regulatory requirements."

- AT&T opposes requests to require carriers participating in pooling to achieve a specific utilization threshold before obtaining "growth" thousands blocks. The NRO Order considered and rejected such a requirement. To require carriers, the NANPA, and regulators to manage a utilization threshold for pooling carriers in addition to making the extensive changes to

systems and processes that national pooling will require would unnecessarily stretch limited resources that already will be taxed by the NRO Order's ambitious agenda.

- The Commission should reject the Maine PUC's request that changes to the Industry Numbering Committee's ("INC") Guidelines be reviewed and approved by a joint federal-state committee. This issue is not a proper subject for a petition for reconsideration, as it was not raised in the NRO Order or the NPRM that preceded it. In all events, there is no evidence that the INC has failed to carry out the Commission's numbering policies, and the extra layer of review it proposes would delay the resolution of issues before the INC.

- AT&T opposes the Ohio PUC's request that state commissions be permitted to require their own numbering-related reports. The NRO Order expressly rejected such a policy after balancing regulators' need for information against the costs to the industry and the NANPA. As the NRO Order found (and the Ohio commission does not dispute), the data collected via the new NRUF reporting format will be adequate to support the number optimization measures established by the FCC.

- The Commission should reject SBC's argument that "unrecovered costs incurred as a result of state pooling trials" should be recoverable under a federal TNP cost recovery mechanism. The Commission should not indulge the presumption that the states will ignore the NRO Order by forcing SBC to bear costs that it has the right to recover.

- Finally, WorldCom provides nothing of substance to support its tired claim that the Commission should mandate unassigned number porting ("UNP"). The Commission has repeatedly -- and correctly -- ruled that UNP, though promising, is as yet too undeveloped to be made mandatory.

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AT&T CORP. PETITION FOR RECONSIDERATION

Pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429, AT&T Corp. ("AT&T") hereby respectfully submits its comments concerning other parties' petitions for reconsideration of the Report and Order and Further Notice of Proposed Rulemaking ("NRO Order")[1] in the above-captioned docket.

I. Other Parties' Petitions Demonstrate That There Is Broad Support For Reconsideration Of The Issues Addressed in AT&T's Petition

The petitions for reconsideration filed by other parties demonstrate that there is broad support for reconsideration of those aspects of the NRO Order that AT&T addressed in its petition. In particular, a wide array of ILECs, CLECs and wireless carriers agree that the order's 45-day limit on number reservations fails to account for either the needs of end users, or the

[1] Report and Order and Further Notice of Proposed Rulemaking, Numbering Resource Optimization, CC Docket No. 99-200, FCC 00-104 (released March 31, 1999) ("NRO Order"). Unless otherwise indicated, all citations are to petitions for reconsideration of the NRO Order.

realities of carriers' provisioning systems.[2] Moreover, since the petitions were filed, end users who would be negatively affected by the NRO Order's reserved number limit have continued to urge the Commission to revise this policy. For example, the State of Arkansas Department of Information Systems, which provides telecommunications services for Arkansas' state and local government offices, universities and school districts, wrote that "[t]he ability to reserve numbers for longer than 45 days is a critical and important issue for Arkansas state government" and for "state governments across the country."[3] Other governmental bodies have expressed similar concerns. The Metropolitan Government of Nashville and Davidson County, Tennessee stated that the ability to reserve numbers for periods longer than 45 days promotes both its "efficient operation" and "public safety."[4]

AT&T strongly supports the Commission's recent decision to extend the deadline for compliance with the NRO Order's reserved number requirements until December 1, 2000.[5] That extension, however, will not resolve the fundamental problems that have been identified by both carriers and affected customers.[6] AT&T respectfully requests that the Commission either

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2 See ALTS, pp. 11-13; AT&T, pp. 6-8; BellSouth, pp. 5-11; Qwest, pp. 3-14; SBC, pp. 2-4; Sprint, pp. 1-2; USTA, pp. 4-9 & 11-12; Verizon, pp. 2-4; Verizon Wireless, pp. 5-6; WorldCom, p. 7.

3 Letter from Don Melton, State of Arkansas Department of Information Systems, to FCC (CC Docket No. 99-200) 1, 2 (July 21, 2000).

4 Letter from Richard McKinney, Director of Information Systems, Metropolitan Government of Nashville and Davidson County, to FCC (CC Docket No. 99-200) 1 (July 21, 2000).

5 Order, Numbering Resource Optimization, CC Docket No. 99-200, FCC 00-280 (released July 31, 2000) ¶ 7 ("July 31 NRO Waiver").

6 Among the problems the 45-day limit creates for end users is the elimination of "vacation service" and other offerings that permit a customer to utilize a particular number for only

(footnote continued on next page)

adopt the NANC NRO Working Group's recommendations for reserved numbers, or continue to stay enforcement of the 45-day limit until "an economically feasible approach for establishing a fee on extensions for reserved numbers can be developed and implemented."[7]

The Commission should, however, reject the proposal by two ILEC petitioners that it "grandfather" existing number reservations as an alternative to revising the 45-day rule or establishing a pay-to-reserve policy.[8] Grandfathering current reservations would impermissibly favor incumbent LECs, as they have a large embedded base of customers -- and presumably a proportionally large embedded base of reserved numbers as well. Such a policy would not "make ... numbers available on an equitable basis," 47 U.S.C. 251(e)(1), because carriers operating in a particular rate center prior to the effective date of the NRO Order would have the opportunity to offer their customers number reservations that a new entrant entering that rate

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(footnote continued from previous page)

a portion of the calendar year. See ACUTA, pp. 1-9; BellSouth, p. 9. End users value these services, and they have not been shown to be significant contributors to NPA exhaust. AT&T believes that the Commission should restore the ability of carriers to offer part-year services.

7 July 31 NRO Waiver ¶ 7. AT&T also asks the Commission to clarify that the 45-day reservation limit established in the order should be calculated based on calendar days, rather than business days. The Common Carrier Bureau's July 11, 2000 Public Notice announced that 47 C.F.R. § 1.4 should govern the calculation of times under the NRO Order, and AT&T believes that interpretation is correct. See Public Notice, Common Carrier Bureau Responses to Questions in the Numbering Resource Optimization Proceeding, CC Docket No. 99-200, DA 00-1549, (released July 11, 2000) ("CCB Response to NRO Questions"). However, Qwest announced at p. 5, n.10 of its petition that it intends to calculate reservation periods based on business days. It is imperative that the Commission definitively clarify this issue so as to ensure that carriers can compete on a level playing field, rather than permitting certain carriers to offer their customers longer reservation periods than are available from carriers that attempt to comply with the CCB's interpretation of the NRO Order.

8 See BellSouth, p. 10; Qwest, pp. 12-13.

center after the order's effective date could not replicate.[9] Grandfathering would also disadvantage end users who move to a rate center after the NRO Order's effective date or who do not reserve numbers prior to that time, as they would not be able to enjoy the same advantages as end users with pre-NRO reservations.

Both carriers and end users also have urged the Commission to revise the NRO Order's five-day limit for holding numbers in "pending" status in the "assigned" reporting category.[10] Among others, the Washington State Department of Information Services observed that unless the 5-day rule is amended, its "ability to deliver service in a timely manner will be seriously diminished,"[11] while the Arkansas Department of Information Systems opined that the requirement would "routinely require a change of number during [the] installation cycle."[12]

Other petitioners also join AT&T in urging the Commission to revisit the NRO Order's treatment of intermediate numbers. The petitions make plain that underlying carriers should not be forced to assume responsibility for reporting on behalf of resellers,[13] and that numbers allocated for a resellers' use should not be counted against an underlying carrier's

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9 Although customers have the right to port reserved numbers when they port working numbers to another carrier, numbers reservation may not be documented sufficiently to permit customers to exercise this right when they seek to do so.

10 See, e.g., ALTS, pp. 13-15; AT&T, pp. 9-10; USTA, pp. 3-4; WorldCom, p. 6.

11 Letter from Michael D. McVicker, Assistant Director, Washington State Department of Information Systems, to Magalie Roman Salas, Secretary, FCC (CC Docket No. 99-200) 4 (July 14, 2000).

12 Melton letter, supra note 3, at 1.

13 See AT&T, pp. 3-4; BellSouth, pp. 2-5; PCIA, pp.10-13.

utilization, because such numbers are not in fact available for assignment to the underlying carrier's end user customers.[14]

II. State Pooling Trials Should Be Coordinated So As Not To Exceed The Three NPAs Per NPAC Region Per Quarter Limit Authorized By The *NRO Order*

AT&T supports BellSouth's request that the Commission take affirmative steps to ensure that the rollout of state thousands block number pooling ("TNP") trials does not exceed the NRO Order's limit of three NPAs per month per NPAC region.[15] The NRO Order held that

> a staggered [number pooling] rollout schedule is necessary, primarily because an overload of the telecommunications network may cause network disruptions when carriers' Service Control Points (SCPs) capacity has been depleted. Based on input we received from NeuStar, the current pooling administrator of ongoing state trials, we also tentatively conclude that the rollout should encompass a maximum of three NPAs in each NPAC region per quarter.[16]

Despite this conclusion, the CCB's most recent waiver order granted twelve state commissions authority to implement TNP.[17] This waiver followed ten previous TNP waivers, as well as the Illinois commission's pooling trial. In all, twenty-three states now have authority to implement TNP trials, and nothing in the waiver orders the Bureau has granted to date requires those states to coordinate their efforts so as to ensure that they do not exceed the limit the NRO Order established to protect the integrity of the PSTN.

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14 See ALTS, pp. 5-9; AT&T, pp. 1-6; BellSouth, p. 12-13; SBC, pp. 7-8; Verizon Wireless, pp. 8-10.

15 See BellSouth, pp. 23-24.

16 NRO Order ¶ 159 (emphasis added).

17 Order, Numbering Resources Optimization, CC Docket No. 99-200, DA 00-1616 (released July 20, 2000).

AT&T's comments on the state TNP waiver petitions that the Common Carrier Bureau addressed after the NRO Order's release expressly argued that the Bureau, acting pursuant to the limited authority delegated in the order, should ensure that state pooling trials did not exceed the three NPAs per quarter per region limit established in that order.[18] In support of this contention, AT&T cited a recent New York commission order that requires, inter alia, pooling in four NPAs in that state alone in April 2001.[19] However, the Bureau's July 20th waiver order failed to address AT&T's comments in any fashion, and does not even acknowledge the NRO Order's conclusion that the rollout of pooling must be limited in order to prevent "network disruptions."

The Commission should grant BellSouth's request to "require strict compliance with the [NRO Order's] rollout schedule,"[20] and should require all states that have obtained (or that in the future obtain) interim TNP authority to ensure that pooling is implemented in no more than three NPAs per NPAC region per quarter. At some point in the future, after both carriers and regulators have more experience with TNP, it may be appropriate to accelerate this rollout.

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18 See Comments of AT&T Corp., filed June 15, 2000 in Oregon Public Utility Commission's Petition for Delegation of Additional Authority to Implement Number Conservation Measures, CC Docket No. 96-98, NSD File No. L-00-29, pp. 8-10; Comments of AT&T Corp., filed April 14, 2000 in Kentucky Public Service Commission's Petition for Delegation of Additional Authority to Implement Number Conservation Measures, CC Docket No. 96-98, NSD File No. L-00-08, pp. 4-6.

19 Proceeding on Motion of the Commission Pursuant to Section 97(2) of the Public Service Law, to Institute an Omnibus Proceeding to Investigate the Efficiency of Usage of Telephone Numbering Resources and to Evaluate the Options for making Additional Central Office Codes and/or Area Codes Available in Areas of New York State When and Where Needed, Order Instituting State-Wide Number Pooling and Number Assignment and Reclamation Procedures, Case 98-C-0689 (New York Public Service Commission, March 17, 2000), Appendix A.

20 BellSouth, p. 24.

At this time, however, the standards the Commission established just four months ago in the NRO Order plainly must govern the Common Carrier Bureau's administration of interim pooling waivers.[21]

III. The Commission Should Clarify Its Sequential Numbering Requirement

AT&T concurs with the parties that request that the Commission clarify or reconsider its sequential numbering requirement.[22] The NRO Order recognized "the potential inconvenience and confusion from the existence of disparate [sequential numbering] requirements," and concluded that "a uniform requirement will be more manageable."[23] But the order does not provide sufficient concrete guidance. Indeed, other than the statement that carriers must "first assign all available telephone numbers within an opened thousands-block before opening another thousands block, unless the available numbers in the opened thousands-block are not sufficient to meet a customer request,"[24] carriers and state commissions have little on which to base number administration and enforcement decisions.

The current sequential numbering standard potentially is problematic in two respects. First, as Sprint describes, it is not operationally possible always to use all available

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21 As NeuStar clarified in a letter to the Commission, the Florida PSC's request to increase the pace of the national rollout of TNP to six NPAs per NPAC region per quarter rests on a mistaken interpretation of testimony concerning the NANPA's capabilities, and is irrelevant to carriers' ability to implement pooling. Compare Florida PSC, p. 6 with Letter from Cheryl A. Tritt, Attorney for NeuStar, to Magalie Roman Salas, Secretary, FCC (June 13, 2000).

22 See Ohio PUC, pp. 18-19; Sprint, pp. 3-5; Verizon Wireless, pp. 6-7.

23 NRO Order ¶ 246.

24 Id. ¶ 244.

numbers within a thousands block before opening another.[25] The Commission, however, apparently did not intend this mandate to be rigidly construed, as the NRO Order expressly adopts a "flexible" standard.[26] Indeed, to AT&T's knowledge, no state commission that has obtained delegated numbering authority has required carriers to use all numbers in an opened thousands block before opening another. As the petitions observe, states have generally mandated that carriers use a specified percentage of numbers available for assignment within open blocks.[27] AT&T agrees, however, that, in order to avoid any potential confusion, the Commission should revise the language of paragraph 244 of the NRO Order to clarify that carriers need not use "all available telephone numbers" within an opened thousands block before opening another block.

Second the NRO Order's current sequential numbering requirement makes it almost inevitable that state commissions will employ varying standards. As noted above, the order explicitly states that the Commission's goal was to create a "uniform requirement." At present, however, the only explicit benchmark the order supplies is the "flexible" rule that a carrier must use "all available telephone numbers" in an opened thousands block. AT&T agrees with petitioners' suggestion that the Commission clarify its requirement by directing that a carrier may open a new thousands block after it has used a specified percentage of numbers available for assignment in previously opened blocks.[28] This threshold could serve as a "safe

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25 See Sprint, pp. 3-4.

26 NRO Order ¶ 244.

27 See Ohio PUC, pp. 18-19; Sprint, p. 4; Verizon Wireless, p. 7.

28 See Ohio PUC, pp. 18-19; Verizon Wireless, p. 7.

harbor," permitting carriers and state commissions to readily verify compliance with the NRO Order's requirements. AT&T believes that the 75% threshold proposed by the Ohio commission would be appropriate if that threshold were calculated in the same manner that state commissions calculate it today -- that is, by excluding from the "available" category those numbers that are aging, administrative, or otherwise not actually available for assignment to a carriers' end user customers.[29] If, however, the Commission seeks to use the NRO Order's definition of numbers available for assignment, then the appropriate threshold must be lowered accordingly, and should be no more than 60%.[30]

In a related matter, AT&T does not oppose the California PUC's request for clarification that the Commission's sequential numbering requirement's exception for a "specific customer request for telephone numbers"[31] does not permit a carrier to open a new thousands block in order to provide a "vanity number." However, the NRO Order does not -- and should not -- prohibit a carrier from providing a particular, customer-chosen number within an already opened thousands block. The goal of sequential numbering requirements is to preserve intact or

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29 AT&T opposes the Ohio PUC's claim that the NRO Order "wrongfully supersedes the states' delegated authority for sequential number assignment" by establishing a national standard. Ohio PUC, p. 18. Each of the Commission's state numbering waivers expressly states that it confers only interim authority, and that state commissions must conform to subsequently-adopted federal standards. There is thus nothing "wrongful" in the NRO Order's establishment of a national sequential numbering standard, which the Commission correctly found would be preferable to disparate state requirements. See NRO Order ¶ 246.

30 See generally Comments of AT&T Corp., filed May 19 2000, in Numbering Resource Optimization, CC Docket No. 99-200, pp. 4-8.

31 NRO Order ¶ 245.

minimally contaminated thousands blocks; no valid purpose would be served by requiring carriers to assign numbers in rigid sequential fashion within opened blocks.

IV. Commission Precedent Makes Clear That Carrier-Specific NPA-Level Utilization Data Is Subject To Confidential Treatment

Paragraph 79 of the NRO Order and the July 11, 200 CCB Response to NRO Questions state that "each carrier's NPA-wide utilization rate" is not subject to confidential treatment, but may be publicly disclosed because those data purportedly do not provide "detailed information on the level of a carrier's activity or operational plans in a specific local exchange market."[32] AT&T supports Verizon Wireless' request that the Commission reconsider this ruling by holding that carrier-specific NPA-wide utilization is in fact confidential.[33]

The Commission has conferred confidential treatment on carrier-specific NPA-wide utilization rates in the past,[34] and nothing in the record of the NRO Order or in the order itself provides a reasoned basis to change the treatment of such data. "[W]hen an administrative agency departs significantly from its own precedent, it must confront the issue squarely and explain why the departure is reasonable. ... An agency changing its course must ... supply a reasoned analysis for the change."[35] In fact, the Commission's Local Competition and Broadband Reporting Order, released one day before the NRO Order, resolved to "report data in a

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32 CCB Response to NRO Questions, pp. 2-3.

33 See Verizon Wireless, pp. 21-22.

34 For example, prior to the NRO Order, carriers submitted COCUS data at the NPA level, and the Commission routinely afforded confidential treatment to that information.

35 Citizens Awareness Network v. United States Nuclear Regulatory Commission, 59 F. 3d 284, 290 (1st Cir. 1995) (citing Motor Vehicle Mfrs. Ass'n v. State Farm Auto. Ins. Co., 463 U.S. 29, 42 (1983)).

manner that aggregates and does not identify the identity of providers where providers have requested non-disclosure of the data."[36]

The sole grounds the NRO Order offers for refusing to treat carrier-specific NPA-wide data as confidential is the claim that various carriers supported that result.[37] However, a review of the comments cited in paragraph 79 of the order shows that the parties actually made a very different point. AT&T and other commenters agreed that aggregated data -- that is, data concerning multiple carriers -- does not implicate confidentiality concerns. However, nothing in the carriers' comments cited in paragraph 79 of the NRO Order suggests that data specific to the operations of a single carrier loses its confidential character merely because data for more than one rate center may be included in information regarding a single NPA. For example, the Commission cited page 55 of SBC's comments on the NRO NPRM, but that document states unequivocally that the NANPA "should be prohibited from disclosing carrier-specific data (including data aggregated in such a manner that carrier-specific data can be derived from the data provided)."[38] The portion of MCI WorldCom's comments cited in paragraph 79 of the NRO Order urges that "[i]f NANPA makes any public presentation of COCUS data, it should do so only in aggregate form, either for the industry as a whole or by industry segment, without

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36 Report and Order, Local Competition and Broadband Reporting, CC Docket No. 99-301, FCC 00-114 (released March 30, 2000) ¶ 92 (emphasis added) ("Local Competition and Broadband Reporting Order"); see also id. ¶ 93 ("[W]e can aggregate much of the data -- for example, by carrier class and to the state level -- so that it does not identify the individual provider in our regularly published reports.") (emphasis added).

37 The order notes that "[a]ggregated data do not provide competitors with detailed information on the level of a carrier's activity or operational plans in a specific local exchange market;" however, carrier-specific NPA-level data are, by definition, not aggregated data. NRO Order ¶ 79.

38 Comments of SBC Communications Inc., p. 55, filed July 30, 1999 in NRO NPRM.

revealing any code holder-specific information."[39] Ameritech similarly contended that "the NANPA should only disclose carrier-specific data under appropriate confidentiality agreements or orders."[40]

As Verizon Wireless' petition demonstrates, a carrier's NPA-wide utilization is competitively sensitive information, and should be treated as such. There is little information that is guarded more closely by a newly-developing competitor, especially when facing an entrenched monopolist, than its subscriber or access line counts. Contrary to the NRO Order's assumption, compiling information from multiple rate centers into NPA-wide data does not sufficiently safeguard competitively sensitive information. Indeed, the Local Competition and Broadband Reporting Order ruled that wireless carriers could designate as confidential "state-by-state subscriber counts" -- data that is, in most cases, far more geographically "aggregated" than NPA-wide data.[41]

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39 Comments of MCI WorldCom, Inc., p. 42, filed July 30, 1999 in NRO NPRM (emphasis added).

40 Comments of Ameritech, p. 21, filed July 30, 1999 in NRO NPRM.

41 Local Competition and Broadband Reporting Order ¶ 92. While any disclosure of carrier-specific NPA-wide data potentially could harm a reporting carrier, in some cases that harm is even more starkly apparent. If a new entrant operates only in a single rate center, then limiting disclosure to NPA-wide data would provide no protection for that carrier's confidential information. Similarly, in an NPA with a small number of rate centers (an increasingly common circumstance due to rate center consolidation), NPA-wide data may provide competitors with valuable information regarding a carrier's entry strategy and permit them to target "winback" or other marketing efforts.

V. State Commissions' Access To Carrier-Specific Data

Three petitioners request that the Commission clarify that state commissions may obtain carrier-specific data from the NANPA,[42] and rule that the NANPA must notify state commissions in advance of all code and block requests for their state.[43] If appropriate confidentiality protections are in place, AT&T does not oppose these requests. If the Commission grants this relief, however, it should clarify that a state commission does not have the right to obtain information pertaining to states other than its own. The more widely confidential information is disseminated, the greater the risk of inadvertent disclosures. A state commission has no need -- or right -- to obtain data pertaining to a state over which it has no jurisdiction.

VI. The Commission Should Not Revise The Deadline By Which State Pooling Trials Must Conform To National Standards

AT&T opposes the request by two petitioners to defer the deadline by which state pooling trials must conform to national standards.[44] The NRO Order permitted ongoing state TNP trials to continue, but ordered them to comply with the national framework established by the order no later than September 1, 2000.[45] In so holding, the Commission weighed the potential innovations that might be gained by allowing states to "experiment" with disparate pooling regimes, but correctly concluded that "uniform standards for thousands-block number

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42 See California PUC, pp. 7-14; Maine PUC, pp. 11-12; Ohio PUC, pp. 12-13.

43 See California PUC, pp. 18-19; Maine PUC, pp. 12-13; Ohio PUC, p. 17.

44 See California PUC, pp. 2-3; Maine PUC, pp. 6-7.

45 NRO Order ¶ 169.

pooling are necessary to minimize the confusion and additional expense related to compliance with inconsistent regulatory requirements."[46]

State commissions have long been on notice that their interim pooling authority would be superseded by national standards, and that the Commission intended to act rapidly on the NPRM that led to the NRO Order. Each state waiver order has made clear that "this grant will be superseded by forthcoming decisions in the Numbering Resource Optimization proceeding that will establish national guidelines, standards, and procedures for numbering optimization."[47] The NRO Order seeks to promote the rapid rollout of TNP by permitting state commissions to pursue interim pooling trials pursuant to national standards while the Commission prepares for national implementation. That is a sound strategy that maximizes the benefits of TNP while minimizing its costs and dislocations. The Commission should not revisit its September 1, 2000 deadline.

VII. The Commission Should Not Impose Utilization Thresholds On Pooling Carriers

AT&T opposes the requests by three parties to require carriers participating in pooling to demonstrate that they have achieved a specific utilization threshold before obtaining "growth" thousands blocks.[48] The NRO Order considered and rejected such a requirement,

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46 Id.

47 E.g., Order, New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket No. 96-98, NSD File No. L-99-21 (released September 15, 1999) ¶ 1.

48 See California PUC, pp. 3-7; Florida PSC, p. 7; Maine PUC, pp. 3-5. Both the Maine and California commissions argue that the Commission should employ a 75% utilization threshold. However, as was also the case in their comments on the recent FNPRM in this docket, these parties fail to acknowledge -- much less to account for -- the fact that the NRO Order employs a utilization calculation that is very different from those used in state numbering trials to date. There is no valid basis to mechanically apply a threshold

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concluding that the Commission's number optimization goals could best be met by requiring pooling carriers to "to donate all thousands-blocks that have a less than ten-percent contamination level to the thousands-block number pool" and by limiting their ability to obtain new thousands blocks to a quantity sufficient "to meet [a] six-month projection forecast."[49]

The NRO Order's scheme is the correct approach, particularly in the initial phases of a national pooling rollout. While individual state TNP trials may have employed a utilization requirement, the Commission now proposes to implement pooling on an aggressive timetable nationwide. To require carriers, the NANPA, and regulators to manage a utilization threshold for pooling carriers in addition to making the extensive changes to systems and processes that national pooling will require would further stretch limited resources that already will be taxed by the NRO Order's ambitious agenda. The order expressly left open the possibility that the Commission could revisit the issue of utilization thresholds for pooling carriers "if we find that such thresholds significantly increase numbering use efficiency."[50] The Commission should continue this measured, incremental approach.

(footnote continued from previous page)

calculated via another methodology -- one that deems a far greater portion of carriers' inventory as unavailable for assignment -- to determinations made using the NRO formula. See generally Comments of AT&T Corp., pp. 4-8, filed May 19, 2000 and Reply Comments of AT&T Corp., pp. 14-15, filed June 9, 2000, in Report and Order and Further Notice of Proposed Rulemaking, Numbering Resource Optimization, CC Docket No. 99-200, FCC 00-104 (released March 31, 1999).

49 NRO Order ¶ 191.

50 Id. ¶ 103.

VIII. The Commission Should Not Encumber The INC By Imposing Joint Federal-State Review On Its Decisions

The Commission should reject the Maine PUC's suggestion that any changes to the Industry Numbering Committee's ("INC") Guidelines be reviewed and approved by a joint federal-state committee.[51] As an initial matter, this issue is not a proper subject for a petition for reconsideration, as it was not raised in the NRO Order or the NPRM that preceded it. The Commission should refuse the invitation to short-circuit the notice and comment requirements of the APA by using this reconsideration proceeding as a "mini-rulemaking."

Even if the INC's procedures were a proper subject of this proceeding (as they are not), the Commission should reject the Maine commission's proposal. State commissions are free to participate in the INC if they choose to do so, and its workings are far from secretive.[52] Moreover, the petition's argument that the INC's currently moves too slowly seems ironic at best in light of the Maine commission's proposal to add a layer of regulatory review.[53] If anything, one of the INC's strengths is that it is a technical, rather than political or legal body, and can therefore often move more rapidly than would be possible in a rulemaking proceeding.[54] The

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51 See Maine PUC, pp. 7-10.

52 Indeed, the Maine PUC clearly has access to the INC's working documents, as it complains that they "do not incorporate all of the [NRO Order]'s requirements." Id. Its petition fails to provide any specifics, however, to document this charge; nor is it clear why the INC's guidelines would necessarily need to incorporate "all the requirements" of the order, rather than only those that were pertinent to the relevant subjects. In all events, it would scarcely be surprising if a draft "working document" were incomplete in some respects.

53 See Maine PUC, p. 9.

54 See Report and Order, Administration of the North American Numbering Plan, CC Docket No. 92-237, FCC 95-283 (released July 13, 1995) ¶ 31 ("[D]espite its flaws, the current model for addressing numbering issues and policy development has enjoyed

(footnote continued on next page)

petition provides no evidence that the INC has failed to carry out the Commission's numbering policies, and the extra layer of review it proposes would, if anything, slow the resolution of issues before the INC.

IX. State Commissions Should Not Be Permitted To Impose Their Own Numbering-Related Reporting Requirements

AT&T strongly opposes the Ohio commission's request that state commissions be permitted to require their own numbering-related reports in addition to the federally-mandated NRUF reports established in the NRO Order.[55] The order carefully considered this issue, and concluded (1) that "the maximum number of reports that any carrier should be required to file in any year is two,"[56] and (2) that permitting states to impose their own reporting requirements "would undermine the purpose of establishing regularly scheduled federal reporting requirements, namely a uniform standard that all carriers could use in their record keeping and reporting activities."[57] In so concluding, the Commission "carefully reviewed the various proposals for reporting and ... balanced the need for information against industry and the NANPA costs."[58]

(footnote continued from previous page)

> significant success. For example, since this docket was opened the industry has consolidated numbering efforts into one primary committee - the Industry Numbering Committee (INC). This committee has successfully resolved many numbering issues without Commission or other NANP member country regulatory proceedings or actions.").

55 See Ohio PUC, pp. 4-9.

56 NRO Order ¶ 65.

57 Id. ¶ 76.

58 Id.

The Ohio commission's chief argument is that it purportedly needs to collect its own data to support its interim pooling trial. However, the NRO Order provides that as of September 1, 2000, national standards will govern interim TNP trials,[59] and the Ohio petition does not contend that the NRUF reporting format provides inadequate data to support the national pooling standards. It is also important to note that, assuming it has the requisite confidentiality protections in place, the Ohio commission will be able to obtain carrier-specific data pertaining to Ohio from the NANPA. As the NRO Order found (and the Ohio commission does not dispute), the data collected via the NRUF reports will be adequate to support the number optimization measures established by the FCC.[60]

X. SBC's Attempt To Recover "Unrecovered" Costs Of Interim State Pooling Trials In The Federal Jurisdiction Is Meritless

The Commission should unequivocally reject SBC's request for a ruling that "any unrecovered costs incurred as a result of state pooling trials are includable under the federal cost recovery mechanism."[61] SBC's reference to "unrecovered costs" assumes state commissions will fail to carry out the NRO Order's mandate that "states conducting their own pooling trials must develop their own cost recovery scheme for the joint and carrier-specific costs of

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59 Id. ¶ 169.

60 AT&T shares the concerns expressed by several petitioners that the NRO Order's exception permitting states to obtain data from carriers "for a specific purpose" must not be permitted to swallow the rule against state-specific reporting requirements. See id. ¶ 76. With the advent of NRUF reporting and availability of those data to state commissions, AT&T believes that the need for states to request information "for a specific purpose" should decline dramatically, and encourages the Commission to ensure that states do not abuse this exception.

61 SBC, p. 6.

implementing and administering pooling in the NPA in question."[62] The Commission should not indulge the presumption that the states will ignore the NRO Order's TNP cost recovery standards.

In all events, it is difficult to foresee what "unrecovered costs" SBC imagines it could be entitled to recover. While a state might potentially adopt a cost recovery regime that improperly allocated costs among carriers or that allowed ILECs to over-recover, the Commission's rulings in the local number portability context make clear that the states may opt to require each carrier to bear its own TNP costs.[63] Given that it is permissible for each carrier to bear all of its TNP costs, SBC will in no event face a scenario under which it is entitled to recover any "unrecovered" state pooling costs via a yet-to-be-established federal mechanism.

XI. There Is No Basis To Revisit The Commission's Repeated Conclusion Not To Mandate Unassigned Number Porting

WorldCom seeks reconsideration of the NRO Order's decision not to require unassigned number porting ("UNP"), arguing that an ex parte filed shortly after the Commission approved the order provides new evidence supporting that capability. AT&T opposes this request. As the Commission has repeatedly held, UNP is "not yet sufficiently developed for adoption as [a] nationwide numbering resource optimization measure[]" and "should not be mandated at this time."[64] The Common Carrier Bureau reaffirmed this finding in its most recent

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62 NRO Order ¶ 171.

63 See, e.g., Telephone Number Portability, First Report and Order, 11 FCC Rcd 8352, 8422 ¶ 136 (1996) (ruling that "a mechanism that requires each carrier to pay for its own costs of currently available number portability measures" would satisfy the competitive neutrality requirement of Section 251(e)(2)).

64 NRO Order ¶ 230.

state numbering waiver order.[65] WorldCom's unelaborated reference to a single ex parte plainly fails to provide an adequate basis to revisit the Commission's oft-stated conclusion that UNP should not be mandatory.

CONCLUSION

AT&T respectfully requests that the Commission reconsider or clarify the NRO Order in accord with AT&T's petition for reconsideration and the above comments.

Respectfully submitted,

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[65] See Order, Numbering Resource Optimization, CC Docket No. 99-200, FCC 00-280 (released July 31, 2000) ¶ 55 ("UNP is not yet sufficiently developed to order implementation. The FCC remains concerned with UNP's potential impact on companies' switching systems and OSSs' mapping logic, if this methodology leads to significant number porting.").

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FROM AT&T LAW DEPT

CERTIFICATE OF SERVICE

I, Margaret Brue, do hereby certify that on this 15th day of August, 2000, a copy of the foregoing "AT&T Corp. Comments on Petitions for Reconsideration" was mailed by U.S. first-class mail, postage prepaid to the parties listed below:

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