

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

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the Telecommunication Act)	
of 1996)	
)	
Petitions for Delegated Authority:)	
)	
Michigan)	NSD File No. L-01-36
_____)	

SPRINT CORPORATION COMMENTS

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SPRINT CORPORATION COMMENTS

Sprint Corporation, on behalf of its local, long distance and wireless divisions (collectively, “Sprint”), submits these comments in response to the petition for delegated authority submitted by the Michigan Public Service Commission (“MPSC”).¹ Sprint supports MPSC’s request for number pooling, but opposes its request to order sequential numbers or to maintain rationing following area code relief.

I. Sprint Conditionally Supports the MPSC’s Request to Commence Pooling in the Detroit and Grand Rapids MSAs

The MPSC seeks delegated authority to implement pooling in the Detroit and Grand Rapids MSAs. Sprint agrees that the MPSC should receive this delegated authority. In the proposed national pooling schedule that it recently submitted to the Commission, Sprint specifically recommended that these Michigan MSAs be placed in the initial round of national pooling.² If pooling is appropriate for such rural non-MSA

¹ MPSC, Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket No. 99-200, at 1 (Jan. 26, 2001)(“MPSC Petition”). *See also Public Notice*, DA 01-466 (Feb. 21, 2001).

² *See* Sprint Comments, Docket No. 99-200, Attachment A (Feb. 12, 2001).

areas as Vermont and West Virginia, as the Common Carrier Bureau has recently held, then pooling is certainly appropriate for these much more populous MSAs.

Sprint's support for the MPSC pooling petition is subject to two conditions: (1) no more than one NPA be converted in each quarter (with relief codes converted with exhausting NPAs) based on the national number pooling schedule, and (2) the MPSC adopts a cost recovery plan. Subject to these conditions, Sprint does not oppose giving the MPSC the authority to select the order in which the subject NPAs are converted to pooling.

II. Sprint Opposes the MPSC's Request for Post-Relief Rationing Authority

The MPSC seeks authority to “maintain NXX code rationing procedures following area code relief to prevent a surge in demand for codes.”³ The Commission cannot grant this request.⁴

The rationing of telephone numbers is incompatible with Commission orders and rules. The Commission has adopted “needs-based” assignment rules “to ensure that carriers request and receive numbering resources only when and where needed,”⁵ and it has directed that numbers “shall” be assigned on “a first-come, first served basis, to those carriers that satisfy the necessary requirements.”⁶ With rationing, carriers do not receive numbers “when and where needed,” nor are numbers assigned on a first-come, first-served basis. Instead, upon demonstrating compliance with the number assignment rules,

³ MPSC Petition at 1-2.

⁴ The Common Carrier Bureau cannot act on the rationing request because the issues raised are new. *See, e.g., First NRO Order*, 15 FCC Rcd at 7652 ¶ 170; 47 C.F.R. § 0.291(a)(2) (“Common Carrier Bureau shall not have authority to act on any applications or requests which present novel questions of fact, law or policy which cannot be resolved under outstanding precedents and guidelines.”).

⁵ *First NRO Order*, 15 FCC Rcd 7574, 7611 ¶ 88 (2000).

⁶ *Id.* at 7612 ¶ 92.

a carrier receives a lottery ticket that *may* enable it to receive the numbers *at some unspecified time in the future*. In the end, as the Commission has already recognized, rationing “poses an insidious threat to competition” because it can “rob consumers of competitive choices.”⁷

The MPSC claims it needs post-relief rationing authority “to prevent a surge in demand for codes.”⁸ This concern is groundless, because the “needs-based” assignment rules now in place “ensure that carriers request and receive numbering resources only when and where needed.”⁹ The only reason to permit rationing after area code relief has been implemented is to preclude a carrier demonstrating a need for additional numbers from obtaining them — that is, to delay entry, as is expressly forbidden by the Communications Act.

Sprint is aware that the Common Carrier Bureau has granted certain states post-relief rationing authority based on “FCC precedent” — namely, the *Pennsylvania Numbering Order*.¹⁰ However, the *Pennsylvania Numbering Order* was adopted in 1998 and it has been modified by the *First* and *Second NRO Orders* adopted in 2000.

In addition, the *Pennsylvania Order* does not support the Bureau’s decisions even if the two *NRO Orders* are ignored. In the *Pennsylvania Order*, the Commission approved rationing in a pre-needs-based number assignment environment *so long as rationing “affects all carriers equally.”*¹¹ However, the Commission further ruled that an arrangement whereby only some carriers would be subject to rationing would be unlawfully discriminatory:

⁷ *Second NRO Order*, Docket No. 99-200, FCC 00-429, at ¶ 59 (Dec. 29, 2000).

⁸ MPSC Petition at 2.

⁹ *First NRO Order*, 15 FCC Rcd at 7611 ¶ 88 (2000).

¹⁰ See *Four PUC Delegation Order*, Docket No. 99-200, DA 00-386, at ¶ 33 (Feb. 14, 2001); *Seven PUC Delegation Order*, Docket No. 99-200, DA 00-656, at ¶ 37 (March 14, 2001).

In this case . . . the rationing would have a disparate effect on the carriers that could not participate in the transparent overlays and number pooling . . . because carriers that could not participate in those conservation measures would only have been able to obtain numbers through the rationing process, and may thus have been thwarted in providing service, while carriers that could participate in the conservation measures would have had multiple potential sources for obtaining numbers.¹²

Awarding the MPSC both pooling and rationing authority would result in the very discriminatory arrangement that the Commission has already ruled is unlawful — because only non-pooling carriers would be subject to rationing. Evidence before the Commission further confirms that the disparate impact is sizable, because pooling carriers can often obtain the numbers they need within a week or two while non-pooling carriers must wait unspecified months.¹³

Congress has mandated that numbers “shall” be made available “on an equitable basis.”¹⁴ An arrangement that allows some carriers to obtain the numbers they need in a week or two while other carriers must wait unspecified months to obtain the numbers they need is not consistent with this statutory directive.

III. The Commission Should Deny the MPSC’s Request for Sequential Numbering Authority

The MPSC seeks authority to “order sequential number assignment to minimize thousand block contamination.”¹⁵ The Commission has already adopted national sequential number assignment rules and, as part of the *First NRO Order*, withdrew the

¹¹ *Pennsylvania Numbering Order*, 19 FCC Rcd 19009, 19036 ¶ 43 (1998)(emphasis added).

¹² *Id.*

¹³ *See California PUC Reconsideration Petition*, Docket No. 99-200, at 6 (July 17, 2000).

¹⁴ 47 U.S.C. § 251(e)(1).

¹⁵ MPSC Petition at 1.

authority that certain states had been delegated.¹⁶ Accordingly, the MPSC request for sequential numbering authority should be denied as moot.

IV. Conclusion

For the foregoing reasons, Sprint conditionally supports the MPSC's request for pooling authority, but it opposes the request for post-relief rationing and sequential numbering authority.

Respectfully submitted,

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¹⁶ See *First NRO Order*, 15 FCC Rcd 7684-85 ¶¶ 244-46 (“State commissions are required to conform their existing sequential number assignment requirements by January 1, 2001.”).

CERTIFICATE OF SERVICE

I, Tina Michelle Hall, hereby certify on that on this 23rd day of March 2001, I served a copy of the foregoing Sprint Comments by U.S. first-class mail to the following persons:

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