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

In the Matter of	)	
	)	
Petition by the United States Department of Transportation for Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation System (ITS) Services Nationwide	)	NSD-L-99-24
	)	
Request by the Alliance of Information and Referral Systems, United Way of America, United Way 211 (Atlanta, Georgia), United Way of Connecticut, Florida Alliance of Information and Referral Services, Inc., and Texas I&R Network for Assignment of 211 Dialing Code	)	NSD-L-98-80
	)	
The Use of N11 Codes and Other Abbreviated Dialing Arrangements	)	CC Docket No. 92-105

OPPOSITION OF THE UNITED WAY OF AMERICA, THE UNITED WAY OF CONNECTICUT, THE UNITED WAY OF METROPOLITAN ATLANTA, AND THE ALLIANCE OF INFORMATION AND REFERRAL SYSTEMS
TO THE PETITIONS FOR RECONSIDERATION

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Pursuant to Section 1.429 of the Commission's rules, 47 C.F.R. § 1.429, the United Way of America, a national membership organization of 1,400 United Way organizations, the United Way of Connecticut, the United Way of Metropolitan Atlanta, and the Alliance of Information and Referral Systems, a national membership organization of over 1,000 information and referral service providers (collectively "United Way/AIRS") respectfully submit this opposition in response to the Petitions for Reconsideration of the Commission's decision set forth in the *Third*

Report and Order in this docket that assigned the N11 numbering codes 211 and 511 for specific uses.[1]

INTRODUCTION AND SUMMARY

As demonstrated below, the Petitions for Reconsideration filed by the Cellular Telecommunications & Internet Association ("CTIA"), Nextel Communications, Inc. ("Nextel"), Qwest International Corporation ("Qwest"), Sprint Spectrum, L.P. d/b/a Sprint PCS ("Sprint PCS"), and Verizon Wireless ("Verizon") and the Request for Clarification filed by SBC Communications, Inc. ("SBC") should be denied. In this Opposition, United Way/AIRS limits its comments to matters related to the 211 assignment, and explains why it is imperative that the Commission expeditiously confirm the validity of the 211 assignment.

The designation of the 211 abbreviated dialing code for community information and referral services was a number assignment – not a rulemaking. In making the assignment, the Commission was within its authority and did not violate the Administrative Procedure Act ("APA"), because APA rulemaking procedural requirements do not attach to number assignments. The Commission, in its discretion, included the 211 assignment with its disposition of items related to the N11 rulemaking proceeding. Moreover, the petitions for reconsideration are not timely and should be denied for that reason alone.

United Way/AIRS supports implementation of the 211 assignment in the most efficient and least burdensome manner. United Way/AIRS would not oppose a rulemaking within the N11 proceeding that could address wireless implementation issues, but would oppose any action

[1] *See Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, Third Report and Order and Order on Reconsideration, FCC 00-256, 15 FCC Rcd 16753 (rel. July 31, 2000)(*"211/511 Assignment Order"*).

to remove the 211 number assignment in total with respect to wireless carriers. United Way/AIRS, and other participants in the assignment proceeding, have provided ample evidence of the need for and the benefits of community information and referral services. Petitioners had every opportunity to participate in the assignment proceeding, and their failure to seek timely reconsideration of the *211/511 Assignment Order* should not be rewarded with any Commission action now, more than eight months later, to re-visit the determinations made in that order.

ARGUMENT

I. THE COMMISSION'S ASSIGNMENT OF THE 211 CODE FOR COMMUNITY INFORMATION AND REFERRAL SERVICES IS VALID.

A. The 211 Collaborative Requested a Number Assignment, Not a Rulemaking.

The United Way of America, United Way 211 (Atlanta, Georgia), United Way of Connecticut, Florida Alliance of Information & Referral Services, and the Texas I&R Network (the "211 Collaborative") requested assignment of the 211 N11 code for community information and referral services on May 28, 1998.[2] The assignment was requested pursuant to Section 1.41 of the Commission's Rules,[3] which regulates informal requests for Commission action, not Section 1.401, which governs Petitions for Rulemaking.[4] In its request, the 211 Collaborative clearly demonstrated the national need for a simple point of access to community information and referral services and how assignment of the 211 code would help meet that need. The

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[2] *See In the Matter of Request of the Alliance of Information and Referral Systems, United Way of America, United Way 211 (Atlanta, GA), United Way of Connecticut, Florida Alliance of Information & Referral Services, and the Texas I&R Network, Petition for Assignment of 211 Dialing Code for Use by the Public to Access Essential Community Resource Services*, NSD File No. L-98-80 (May 28, 1998).

[3] *See* 47 C.F.R. § 1.41.

[4] *See* 47 C.F.R. § 1.401.

Commission issued a public notice requesting comments and reply comments on the requested assignment under NSD File No. L-98-80.[5] After waiting over two years for a response from the Commission, the 211 code was assigned nationally for community information and referral services on July 31, 2000.[6] The 211 assignment was announced concurrently with the *Third Report and Order* in CC Docket No. 92-105.

B. The Commission's Action Was A Number Assignment, Not A Rulemaking.

The assignment of 211 was not a rulemaking proceeding triggering the notice and comment and publication requirements of the APA.[7] No other assignment of an N11 code (*e.g.*, 311, 711) was proposed by means of a notice of proposed rulemaking,[8] and although these assignments were made in the same way as the assignments of 211 and 511 (*i.e.*, through a report and order in CC Docket No. 92-105),[9] there was never any allegation or finding of procedural

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[5] *See Request by the Alliance of Information and Referral Systems, United Way of America, United Way 211 (Atlanta, GA), United Way of Connecticut, Florida Alliance of Information and Referral Services, Inc., and Texas I&R Network for Assignment of 211 Dialing Code: Pleading Cycle Established*, Public Notice, NSD-L-98-80, DA 98-1571 (rel. Aug. 6, 1998).

[6] *See Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, Third Report and Order and Order on Reconsideration, FCC 00-256, 15 FCC Rcd 16753 (rel. July 31, 2000)(*"211/511 Assignment Order"*).

[7] *See* 5 U.S.C. § 552 *et seq.*

[8] As with 211 and 511, the Commission sought comment on the proposal to assign these codes through the public notice process. *See Commission Requests Comment on Petition for Assignment of N11 Codes to Facilitate Access to Telecommunications Relay Services*, Public Notice, 8 FCC Rcd 7587 (1993); *see also Commission Clarifies Pleading Cycle for Comments on Petition for Assignment of N11 Codes to Facilitate Access to Telecommunications Relay Services, Public Notice*, 8 FCC Rcd 8391 (1993); *Pleading Cycle Established for Request of the United States Department of Justice That 311 Be Reserved for Use by Communities For Non-Emergency Policy Telephone Calls*, Public Notice, 11 FCC Rcd 10574 (1996).

[9] *The Use of N11 codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, First Report and Order and Further Notice of Proposed Rulemaking, 12 FCC Rcd 5572 (1997) (hereinafter *"First Report and Order"* or *"N11 FNPRM"*). That order specifically stated that

infirmity. United Way/AIRS and its partner organizations addressed this issue in the 211 context as early as 1999 in its reply to MCI WorldCom's request for a general rulemaking procedure regarding the assignment of N11 codes in August 1999.[10] The 211 Collaborative maintained that peripheral technical issues such as routing and switching should not sidetrack Commission action on the petitions for the N11 codes.[11] The 211 Collaborative noted:

> There is no need to delay the realization of these benefits by tying them to the outcome of a lengthy rulemaking proceeding that would do nothing to enhance the Commission's ability to make a reasoned decision on whether those petitions should be granted. The records in the 211 Collaborative and USDOT proceedings are now fully developed, and now is the time for the Commission to act on them.[12]

The Commission itself concluded that the N11 assignment was not a rulemaking in its *211/511 Assignment Order,*[13] and noted that it believed a comprehensive review of rules and

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"[a]lthough this *First Report and Order* adopts several measures regarding abbreviated dialing arrangements, it does not specifically adopt the rules proposed in the *N11 NPRM*." *Id.* at 5580 n.31.

[10] *See Petition by the United States Department of Transportation for Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation System (ITS) Services Nationwide*, Reply Comments of the 211 Collaborative, File No. NSD-99-24, CC Docket No. 92-105 (Aug. 20, 1999).

[11] *Id.* at 4.

[12] *Id.* at 5. The 211 Collaborative noted that such peripheral or secondary issues could be the basis for separate Commission action or rulemaking. *Id.* at 4.

[13] *See In the Matter of Petition by the United States Department of Transportation for the Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation System (ITS) Services Nationwide; Request by the Alliance of Information and Referral Systems, United Way of America, United Way 211 (Atlanta, Georgia), United Way of Connecticut, Florida Alliance of Information and Referral Services, Inc., and Texas I&R Network for Assignment of 211 Dialing Code; The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, Third Report and Order and Order on Reconsideration, CC Docket No. 92-105, FCC 00-256 at ¶ 44 (rel. July 31, 2000).

practices related to abbreviated dialing arrangements was unnecessary.[14] Further, the Commission noted that the *211/511 Assignment Order* did not adopt any rules and merely addressed the pending requests for assignment of N11 codes and resolved outstanding issues from the original N11 rulemaking.[15] Finally, the *211/511 Assignment Order* is conspicuously missing a Final Regulatory Flexibility Analysis ("FRFA").[16] The Commission concluded:

> Therefore, we decline to make any revisions or modifications to our rules at this time. The RFA requires that a Final Regulatory Flexibility Analysis be completed "[w]hen an agency promulgates a final rule…." *Because we are not adopting any new rules and are not making any changes to existing rules*, a FRFA is not required.[17]

In other words, number assignments do not fall within the requirements of the RFA because number assignments are not rulemakings.

The foregoing demonstrates that the Commission did not intend the N11 assignments to be part of a rulemaking proceeding.[18] In the *211/511 Assignment Order* (addressing BellSouth's Petition for Clarification), the Commission notes that "assignment" means that an announcement is made to the industry that a particular number will be used for certain, defined services to warn current users of that number that they will need to relinquish their use of the number.[19] The

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[14] *Id.*

[15] *Id.*

[16] The need for initial and final regulatory flexibility analyses is tied to Section 553 of the APA and the Regulatory Flexibility Act ("RFA"). Regulatory flexibility analyses are triggered by notice and comment rulemaking proceedings. *See* 5 U.S.C.A. § 604.

[17] *211/511 Assignment Order* ¶ 47 (emphasis added).

[18] This expression of Commission intent that the assignments were not rulemakings refutes Verizon Wireless's assertion that the APA was violated in a rulemaking proceeding. *See* Verizon Wireless Petition at 25.

[19] *211/511 Assignment Order* ¶ 33.

assignment of number resources (*e.g.*, area codes and toll-free codes) has not generally been a subject of *Federal Register* publication and there is no explicit publication requirement under Part 52 of the Commission's Rules.[20] Such an announcement is not the creation of a rule and the assignment of a numbering resource does not therefore contemplate a rulemaking proceeding. Any publication deficiencies pertaining to the rulemaking component of the *211/511 Assignment Order* (*i.e.*, notice of the disposition of the petitions for reconsideration) do not affect the N11 assignments.

Sprint PCS argues that the entire *211/511 Assignment Order* is procedurally defective.[21] Any procedural shortcomings are severable and do not render the assignment itself invalid. For the N11 assignments, the Commission made a decision, in its discretion, to include in a single order the assignments of 211 and 511 along with the resolution of other items related to a rulemaking proceeding. While, in retrospect, this approach may have sacrificed clarity for convenience, the Commission did not initiate a notice of proposed rulemaking in order to consolidate the number assignment requests within the rulemaking. It is also clear that number assignments are not, on a stand alone basis, subject to APA requirements. The Commission need not "start over" as Sprint PCS suggests.[22]

Verizon Wireless claims that CMRS providers have not had a fair opportunity to raise objections to the assignments and the specifics of the proposals.[23] This argument is unfounded. Significantly, none of the parties seeking reconsideration contend that they did not have actual

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[20] *See* 47 C.F.R. § 52 *et seq*.

[21] *See* Sprint PCS Petition at ii.

[22] *See Id.* at 2.

[23] *See* Verizon Wireless Petition at 21.

notice of the petition. Over 200 entities participated in the 211 assignment comment process.[24] If any of the parties now seeking reconsideration wished to oppose the petition on the grounds that the assignment should be done only in the context of a rulemaking, they could have advanced that argument in their comments. Indeed, that was the course pursued by MCI Worldcom. Instead, the parties now seeking reconsideration "sat on their rights." Their arguments that a number assignment constitutes – or should constitute – a rulemaking are not only wrong, but untimely.

Moreover, "starting over" would cause unnecessary duplication, administrative burden, and delay. The Commission has been considering the 211 assignment for almost three years now. Further delay because CMRS providers chose not to participate in the assignment comment cycle is not in the public interest. While United Way/AIRS does not believe that the concerns voiced by Petitioners necessitate further rulemaking action, we would willingly participate in a rulemaking to address the concerns regarding the technical details of wireless implementation of the 211 assignment.[25] Putting the future and implementation of even 211 landline services in jeopardy while waiting for the potentially protracted resolution of technical and implementation issues affecting the wireless industry is unjustified.

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[24] *See 211/511 Assignment Order* at Appendix B. The Commission issued a Public Notice in response to the 211 Collaborative's petition for assignment on August 6, 1998. *See Request by the Alliance of Information and Referral Systems, United Way of America, United Way 211 (Atlanta, GA), United Way of Connecticut, Florida Alliance of Information and Referral Services, Inc., and Texas I&R Network for Assignment of 211 Dialing Code: Pleading Cycle Established*, Public Notice, NSD-L-98-80, DA 98-1571 (rel. Aug. 6, 1998). The Public Notice established timeframes of September 8, 1998 for comments and September 21, 1998 for reply comments.

[25] United Way/AIRS notes that any delay caused by this proceeding, with regard to both wireline and wireless implementation of 211, may negatively impact the ability of the United Way/AIRS and their partners to satisfy the five-year utilization benchmark established by the Commission when it assigned the code. *See 211/511 Assignment Order* ¶ 21.

C. The Objections To The 211 Assignment Are Not Timely And Should Be Dismissed.

Because the 211 assignment was not a rulemaking, any timely objections to the assignment should have been filed with the Commission within 30 days of public notice.[26] Public notice announcing the assignment of the 211 code was issued by way of the release of the *211/511 Assignment Order* on July 31, 2000.[27] Additionally, a detailed press release regarding the 211 and 511 assignments was issued 10 days earlier—on July 21, 2000.[28] Further, public notification of the assignments was in the Commission's *Daily Digest* on July 24, 2000. No motions to extend time were filed. Yet, the Petitions for Reconsideration were not filed until March 12, 2001 — well beyond the 30-day deadline. Therefore, all of the instant Petitions for Reconsideration filed pertaining to the 211 and 511 assignments are not timely and should be dismissed.

Petitioners cannot persuasively argue that they did not have actual notice of the 211 and 511 assignments. The Petitioners are well-informed and influential industry participants; the Commission issued a press release and otherwise publicized the assignment decision. Yet, at the time of release of the *211/511 Assignment Order* Petitioners expressed no opposition.

Although Section 405 of the Communications Act is not an absolute bar to the Commission's consideration of relevant issues raised after 30 days from the release of the

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[26] *See* 47 C.F.R. 1.106 (f).

[27] According to 47 C.F.R. § 1.4(b)(2), public notice is deemed to occur on the date of release of the document by the Commission. The *211/511 Assignment Order* was released on July 31, 2000. Petitions for reconsideration were thus due on August 30, 2000.

[28] *Federal Communications Commission Assigns Easy to Use Phone Numbers for Community & Referral Service Information and Travel & Transportation-Related Information*, News Release (rel. July 21, 2000).

211/511 Assignment Order,[29] the fact that Petitioners chose on their own volition not to file within this period renders the petitions untimely, even if the Petitioners were somehow misled by the styling of the order to believe that it would be treated as a rulemaking.[30] The Commission has been directed by the courts not to exceed the 30-day filing period "except in very unusual circumstances."[31] There is nothing unusual here that could not have been cleared up by a simple telephone call to FCC staff to determine whether or not the Commission intended to publish a timely public notice of the *211/511 Assignment Order* in the *Federal Register*. The only unusual aspect of this proceeding is the Commission's decision some six months later to effect *Federal Register* publication.

There is no record of any *ex parte* contacts in the record of Docket 92-105 that documents how Petitioners' eventual dissatisfaction – after the 30 days subsequent to the release of the *211/511 Assignment Order* – was conveyed to the Commission. Nevertheless, this apparent dissatisfaction ultimately was addressed by a Commission staff decision to publish notice of the *211/511 Assignment Order* on February 9, 2001, more than six months after the date of the order's release. Thus, if the assignment of the 211 number code was the product of a rulemaking – which it was not – then there would be serious questions about adherence to Commission's *ex parte* rules governing the disclosure of communications relevant to the outcome of rulemaking proceedings. The Commission should not further compound this labyrinthine tale by a retroactive conversion of the *211/511 Assignment Order* into a rulemaking.

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[29] *Meredith Corp. v. FCC*, 809 F.2d 863, 869 (D.C. Cir. 1987).

[30] *See Freeman Engineering Associates v. FCC*, 103 F.3d 169, 183 (D.C. Cir. 1997) (rejecting arguments by late-filed petitioners that they were "misled" that the Commission would address their issues in a later rulemaking).

[31] *Virgin Islands Telephone Corp. v. FCC*, 989 F.2d 1231, 1237 (D.C. Cir. 1993).

D. The Commission Utilized The Appropriate Standard Of Review.

Petitioners claim that the assignments are procedurally deficient because the Commission failed to separately consider the impacts of the assignments on wireless carriers.[32] This claim is not accurate. The Commission applied the appropriate public interest standard of review for number assignments.[33] The Commission generally does not engage in special consideration of wireless entities as far as number assignments are concerned (*e.g.*, the Commission prohibits service-specific area code overlays) because a fundamental goal of the NANP is uniformity.

Moreover, the 211 Collaborative's petition for assignment contained much information on the overall benefits of the assignment of 211 for community information and referral services. While it may be a petitioner's burden to show that the benefits of assignment outweigh its costs, a petitioner can only do so much to anticipate what those costs will be and address them without input from opponents. The Petitioners here had ample opportunity to voice their concerns in the assignment proceeding and failed to do so. Based on the information presented, the Commission, in assigning 211 for community and information referral services, did not act in an arbitrary and capricious manner.

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[32] *See* Qwest Petition at 2; Verizon Wireless Petition at 5.

[33] *See First Report and Order* ¶¶ 23, 35; *211/511 Assignment Order* ¶ 2.

E. The Commission Should Expeditiously Re-Affirm the Validity of The 211 Assignment.

United Way/AIRS does not oppose a proceeding initiated by the Commission to address the wireless implementation issues raised by Petitioners. In fact, if the Commission determines that such a rulemaking is necessary, United Way/AIRS will gladly participate in any such proceeding and work with the industry in an effort to maximize the deployment of 211. In the meantime, United Way/AIRS asks the Commission to quickly clarify that the 211 assignment is valid. Otherwise, the progress of 211 implementation will be jeopardized.

Since the assignment of 211 to community information and referral services in July 2000, significant progress has been made toward ubiquitous deployment of the code. Georgia, Texas, Massachusetts, Florida, North Carolina, Minnesota, and Michigan have all made significant steps toward 211 implementation.[34] Further, United Way/AIRS has developed suggested standards for the operation of 211 call centers. Uncertainty regarding the future and stability of the 211 assignment for use by community information and referral services delays the implementation of the invaluable services being offered by organizations like the United Way. Such delay is contrary to the public interest.

Time is also of the essence for the Commission to verify the status of the 211 assignment from the United Way's fundraising perspective. The United Way is undertaking extensive fund development efforts at the national, state, and local level for 211 implementation. Delay of the 211 code assignment and implementation could jeopardize prospective funding to United Way programs and the critical services they provide. Therefore, United Way/AIRS asks that the Commission take immediate action to clarify that the national assignment of the 211 code for

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[34] *See* Attachment A, *infra*.

community information and referral services is intact. Providing this immediate assurance will enable our deployment of landline 211 to continue while the corollary wireless implementation issues are resolved.

II. UNITED WAY/AIRS AND ITS PARTNERS WILL WORK WITH THE PETITIONERS ON 211 IMPLEMENTATION ISSUES.

Petitioners request that the Commission resolve certain 211 implementation issues, including: identification of what entities are qualified to provide community information and referral services,[35] clarification of the Commission's and the states' roles in the implementation of 211 and 511 services and selection of agencies to receive 211 or 511 calls,[36] handling of multiple requests within a single community, and clarification of no additional charges to end-users.[37] In denying the requests to re-visit the 211 assignment, the Commission could, as it did with 311, "recognize that all implementation issues [] have not been resolved"[38] but "that the benefits of a national assignment outweigh implementation concerns."[39]

If Commission action is indeed necessary, implementation issues of this sort are more properly resolved in a rulemaking procedure, which is why the Commission did not address them in the *211/511 Assignment Order*. This approach is consistent with past Commission practice. For example, in the assignment of 711, the Commission issued a *Further Notice of Proposed*

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[35] CTIA Petition at 6; Nextel Petition at 5; Qwest Petition at 4.

[36] SBC Petition at 2; Sprint PCS Petition at 15.

[37] SBC Petition at 1.

[38] *211/511 Assignment Order* ¶ 35.

[39] *Id.* n.105.

Rulemaking to resolve implementation issues.[40] The Commission should not, however, delay 211 implementation.

Although the concerns of the Petitioners should not be addressed on reconsideration of the *211/511 Assignment Order*, but instead in a subsequent phase of CC Docket No.92-105, we nevertheless address the merits of some of these concerns below. United Way/AIRS shares the desire to see these issues resolved expeditiously and with the fewest burdens for affected carriers, but it urges the Commission to do so in a way that does not undermine, procedurally or substantively, its decision to assign 211 to community information and referral services. To this end, the United Way/AIRS will take an active role facilitating 211 implementation and development. The United Way/AIRS is establishing a national 211 office that can help with the monitoring of 211 implementation; providing technical assistance for 211 operators, carriers (including wireless carriers), state public utility commissions and other interested parties; and the resolution of competing requests for 211. The United Way/AIRS will work with the Commission, state authorities, and carriers towards the successful national deployment of 211.

Some petitioners ask the Commission to clarify which entities are eligible to request 211 service[41] and how to resolve competing requests.[42] Specifically, SBC and Sprint PCS request clarification on whether the Commission or state public service commissions will play a role in selecting eligible entities to provide 211 or resolving disputes among competing requests for 211 assignment.[43] Section 251 (e) of the Communications Act of 1934, as amended by the

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[40] *N11 FNPRM*, 12 FCC Rcd at 5610, ¶ 67.

[41] Nextel Petition at 4-6; CTIA Petition at 6; Verizon Wireless Petition at 20.

[42] Qwest Petition at 3-4; CTIA Petition at 6; Verizon Wireless Petition at 20.

[43] SBC Petition at 15-16.

Telecommunications Act of 1996, gives the Commission exclusive jurisdiction over numbering administration and over the portions of the North American Numbering Plan ("NANP") pertaining to the United States.[44] Section 251 (e) also enables the Commission to delegate all or part of its numbering administration authority to state commissions or other entities. Traditionally, the administrator of the NANP has handled national number assignments.[45] The history of N11 assignments, however, has been somewhat unsystematic. Phone companies, state public utility commissions, the Commission itself, and even Congress have assigned N11 codes.

The Commission has indicated that state commissions are the appropriate entities to implement 211 on a state and local basis. The Commission has allowed states to continue to perform number administration functions if they did so prior to the Telecommunications Act of 1996.[46] As the Commission directs in its "N11 Abbreviated Dialing Codes Third Report and Order and Order on Reconsideration Questions and Answers," "[c]ommunity information and referral service organizations, such as the United Way, must work with carriers and the appropriate state and local governments to implement 211."[47]

Commission delegation of its authority to the states to coordinate and implement 211 is supported on several grounds. First, implementation of 211 at the state level is appropriate given the very nature of the 211 code: community information and referral services. States are in a

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[44] *See* 47 U.S.C.A. § 251 (e). *See also 211/511 Assignment Order* ¶ 4.

[45] *See First Report and Order* ¶ 4.

[46] *Id.* ¶ 13; *see also In the Matter of Implementation of 911 Act, The Use of N11 Codes and Other Abbreviated Dialing Arrangements,* Fourth Report and Order and Third Notice Of Proposed Rulemaking, CC Docket No. 92-105, Notice of Proposed Rulemaking, WT Docket No. 00-110 ¶ 10, 15 FCC Rcd 17079 (rel. Aug. 29, 2000).

[47] *See* http://www.fcc.gov/ccb/nsd/documents/N11QA.DOC (emphasis added).

better position than the Commission to have access to information and be responsive to local and community needs. Second, states are in the best position to make the determination whether it would be most efficient and effective to operate 211 on either a statewide or community basis. Third, significant progress has already been made in implementing 211 at the state level, utilizing state legislatures and state utility commissions. Some states may elect to have a single state-wide operator for 211 services; in those states, wireless carriers will be most likely and able to provide correct 211 routing.[48]

Some petitioners request guidance regarding eligibility criteria for carriers requesting 211 service.[49] In the event that there are contested assignments of the code in particular jurisdictions, United Way/AIRS suggests that state public utility commissions use six criteria in assigning 211 to requesting entities, *i.e.*, an entity approved for 211 service must:

- Be a non profit 501(c)(3) organization,
- Demonstrate that it has the staff and financial capacity and resources to implement 211,
- Demonstrate the ability to provide comprehensive human services information and referral ("I&R"),
- Demonstrate the ability to provide 211 free of charge to calling parties,
- Demonstrate the ability to adhere to I&R professional standards, and
- Demonstrate collaboration among I&R providers (including specialized I&R providers), United Ways, state and local governments, telecommunications providers, and 911 and 311 providers.

Some petitioners express concern that they will receive competing requests for 211. In the unlikely event that more than one requesting entity fulfills all of these criteria for the same geographic area, the state public utility commission is in the best position to determine which entity can best serve the area or state. As with 311, the Commission should recognize that "state

[48] *See* Nextel Petition at 6-7, Sprint PCS Petition at 14. As Nextel states: "The smaller the geographic area of a 211 entity, the greater the likelihood of misrouting a 211 call."

[49] Verizon Wireless Petition at 19-20.

public utilities commissions . . . can address any conflicting requests for use of 311 . . . better than" the Commission.[50]

SBC requests clarification on what the Commission means when it states that 211 providers will offer "access to [] services without an additional charge to callers."[51] In its original petition, the 211 Collaborative requested the "Commission assign the 211 dialing code for use by the public to access services providing free information and referrals regarding community service organizations."[52] Calls made to 211 are provided free for the call originator, and thus they will not incur any charges.

III. THE ASSIGNMENT OF 211 SHOULD APPLY TO WIRELESS CARRIERS.

Wireless customers should not be excluded from the public benefits provided by 211. Currently there are over 111 million wireless subscribers, and that number is expected to increase to 128 million by year-end.[53] Wireless subscribership reached 36 percent penetration of the U.S. population in 2000.[54] In 1999, wireless subscribers made over 43 million 911 calls.[55]

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[50] *First Report and Order* ¶ 37.

[51] SBC Request at 1-2.

[52] *Request of The Alliance of Information and Referral Systems, United Way of America, United Way 211 (Atlanta, GA), United Way of Connecticut, the Florida Alliance of Information and Referral Services, Inc., and the Texas I&R Network for Assignment of 211 Dialing Code* at 1, NSD File L-98-80 (May 28, 1998) (emphasis added).

[53] *See* CTIA, http://www.wow-com.com (April 4, 2001); Richard Stenger, *Wireless Study: Expect More Ads, Teen Users, at* http://www.cnn.com/2001/TECH/ptech/02/21/wireless.report/ (Feb. 12, 2001).

[54] Peter C. Friedland, *Analyst View: U.S. is in Line for Wireless Growth, at* http://www.redherring.com/index.asp?layout=story&channel=20000002&doc_id=1680017568. (Feb. 22, 2001).

[55] CTIA, *Industry Issues & Answers, Wireless 9-1-1 and Distress Calls, at* http://wow-com.com/industry/stats/e911/.

The denial of access to 211 services by wireless service providers would be a disservice to their subscribers and to the public interest.

The fact that wireless networks do not rely on traditional geographic boundaries as do wireline networks is not a fundamental problem for 211 implementation. Unlike emergency or police response services like 911 or 311, there are no issues of jurisdictional authority with respect to 211 operators. Serious harm would not be caused if a wireless carrier handed off a 211 call to an adjacent county or other geographic area so long as the call is delivered to a 211 provider in the general proximity. The community information and referral provider will either handle the call or cooperate with other providers in the I&R system to provide the needed assistance.

Some petitioners argue that the Commission abandoned its deregulatory approach to the wireless market in applying the 211 requirement to CMRS providers[56] and did not consider whether the benefits to the public of 211 service outweigh the costs incurred by wireless carriers.[57] Curiously, wireless carriers did not insist that the cost of complying with the 311 and 711 requirements outweighed the benefits to consumers and that they should therefore be exempt from the provision of 311 and 711. Petitioners also assert that because the Commission did not consider the unique characteristics of wireless service in imposing the 211 requirement, it did not provide adequate guidance to CMRS carriers for 211 implementation.[58] Similar issues have been resolved already in the assignments of 911, 711, and 311. United Way/AIRS fully expects that such issues can be resolved in the 211 context without undue delay and without an exemption for

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[56] Sprint PCS Petition at 10-13; Verizon Wireless Petition at 5-9.

[57] Qwest Petition at 2; Verizon Wireless Petition at 8-9.

[58] CTIA Petition at 3-5; Verizon Wireless Petition at 10-13.

wireless carriers. The benefits of national designation of 211 for human services information and referral outweigh the inconvenience to wireless carriers of routing 211 calls.

The Commission has a single standard for designating N11 numbers -- whether the use is in the public interest, often expressed as an equation of whether the benefits of the designation outweigh the costs.[59] The Commission does not conduct this analysis by geographic or service market. The Commission determines, on balance, whether the benefit to the general public of the United States outweighs the cost to telecommunications providers (and any other affected parties). The Commission found that 211 designation for human services I&R meets this standard.[60] To support its finding, the Commission noted that 211 provided public benefits that addressed a public need and enjoyed an enormous amount of support.[61] In fact, only a handful of the 220 parties responding to the Commission's invitation to submit comments on the 211 petition were opposed to 211 assignment. Furthermore, none of the wireless companies that filed petitions for reconsideration even filed comments on the 211 petition.

211 community information and referral services satisfy the Commission's public interest standard for a multitude of reasons. 211 is a free resource that makes a critical connection between individuals and families in need and the appropriate organization(s). 211 addresses people's basic, compelling human needs, such as food, shelter, and physical and mental health, while providing referrals to the whole range of human services. Americans make approximately 50 million calls a year to community information and referral services, demonstrating the tremendous need for 211 service. Further, 211 benefits individuals and the community by

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[59] *First Report and Order* ¶¶ 19, 35; *211/511 Assignment Order* ¶ 2.

[60] *211/511 Assignment Order* ¶¶ 2, 18-21.

[61] *211/511 Assignment Order* ¶¶ 2, 18-21.

working with people in need to fully understand their problems and providing them with program eligibility criteria and service provider information. By linking people in need with available resources, 211 promotes prevention and encourages self-sufficiency.

Additionally, 211 implementation has the support of United Ways and information and referral service providers across the country, has infrastructure in place, and has secured funding in many communities. The existing infrastructure includes nearly 1,000 I&Rs and 1,400 local United Ways. United Way of Metropolitan Atlanta; Community Connection of Northeast Georgia (Athens); Contact Helpline of Columbus, GA; United Way of Connecticut; Lafayette General Medical Center, in partnership with a comprehensive I&R center, of Lafayette, LA; and Knoxville Information and Referral currently operate 211 call centers. Since Atlanta and Connecticut switched from 10-digit telephone numbers to 211, the volume of calls received at both has increased 40 percent, with each handling approximately 200,000 calls in 1999.[62] Atlanta and Connecticut have made significant investments of funding, staff and volunteer time and have conducted intensive public education campaigns around 211.

States across the country have recognized that 211 community information and referral services are in the public interest. State public service commissions have approved statewide 211 petitions in Alabama, Massachusetts, North Carolina, Ohio, Texas, and Utah. Further, Wisconsin is currently considering a statewide 211 petition. Michigan and Illinois have passed legislation designating 211 for community information and referral. Additionally, several states intend to implement 211 in the next couple of years.[63]

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[62] 211 is available in Atlanta and the surrounding thirteen counties and statewide in Connecticut.

[63] *See* Attachment A.

211 has significant Congressional support as well. On June 29, 2000, Senators Max Cleland (D-GA) and Olympia Snowe (R-ME) introduced legislation, S.2815, to provide for national designation of 211 for access to community information and referral services.[64] In Senator Cleland's statement introducing the bill, he emphasized that "2-1-1 is a service in the public interest that needs a national designation."[65]

Further, a General Accounting Office ("GAO") Report to Congress, which evaluated the provision of information and referral services, also supports national designation of 211 for community information and referral services.[66] GAO recommended that "a national policy and plan to promote the establishment of comprehensive centers" be developed.[67] The Commission's national designation of 211 for community information and referral services helps to fulfill GAO's recommendation, as it provides a single point of access for community I&R services and streamlines the community services delivery system.

The benefits of 211 are not limited to landline uses. As the United States becomes increasingly dependent on wireless communications, it becomes inconsistent and undesirable from a consumer standpoint that consumers cannot reach the same services with landline and wireless phones. Additionally, there are unique circumstances where callers may favor 211 over

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[64] Senator Cleland is a member of the Communications Subcommittee and Senator Snowe is a member of the Commerce Committee. S.2815 was referred to the Committee on Commerce, Science and Transportation.

[65] *Id.*

[66] United States General Accounting Office, *Information and Referral for People Needing Human Services: A Complex System That Should Be Improved*, HRD 77-134 (Mar. 20, 1978).

[67] *Id.* at 32.

911. Many domestic abuse centers have programs where they provide cell phones (frequently donated by wireless carriers) to abuse victims for use in emergency situations or to enable victims to get help without creating a phone or police record. Family situations involving drug use, child abuse, and runaways are also situations where a 211 alternative to 911 would provide significant benefits and where use of a mobile phone could be essential. The ability to reach 211 via wireless carriers in these circumstances is of critical importance.

It is technically feasible for wireless carriers to provide 211 service. As the Commission noted, based on information from CTIA, "[w]ireless carriers also deploy switches that can be modified to translate 711 to any seven or ten-digit number."[68] Moreover, the Commission stated that "[o]nce a[n N11] call is translated, it would have the same characteristics as the full seven or ten digit number. The same routing, roaming and billing problems would apply to a[n N11] call or a 7 or 10 digit call."[69] In addressing wireless carriers' 711 implementation concerns, the Commission determined that the concerns should be addressed, and resolved, through collaboration between the carriers and the 711 service providers.[70]

311 and 911 implementation pose the same challenges for wireless carriers as 211 because all of these services are provided in geographic areas that do not necessarily conform to cell site services areas.[71] The Commission, however, has declined to address CTIA's request for

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[68] *In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, Second Report and Order, CC Docket No. 92-105, ¶ 23 and n.69 (rel. July 21, 2000)(hereinafter "*Second Report and Order*").

[69] *Second Report and Order* ¶ 35, n.95.

[70] *Id.* ¶¶ 36-37.

[71] *First Report and Order* ¶43; *211/511 Assignment Order* ¶ 27.

advising "how [wireless 311] calls would be routed and terminated."[72] The Commission has even reaffirmed a six-month 311 implementation requirement for wireline and wireless carriers.[73] As the Commission noted in considering wireless carriers' provision of 911 service, wireless carriers translate 911 calls into the locality's seven or ten digit emergency services number,[74] just as they would for 211 service. Regarding roaming, we recommend that wireless carriers should simply hand off 211 calls to the local landline carrier for call completion. As such, if a roaming caller dials 211 in an area that provides 211, they will be connected to 211. If they are roaming in an area without 211, they will not access 211.

Both Sprint PCS and Verizon acknowledge they can reprogram their mobile switching centers to route 211 calls to a single destination.[75] While Nextel acknowledges "that wireless carriers have, to some extent, addressed these routing issues with the deployment of basic and enhanced 911. Calls from a particular cell site are routed to a pre-arranged Public Safety Answering Point,"[76] it proposes that the Commission permit only one translation number per state for "uniformity and consistency" and to "reduce the number of technical complexities wireless carriers face in routing and deploying N11 codes."[77]

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[72] *First Report and Order* ¶ 43.

[73] *211/511 Assignment Order* ¶ 36.

[74] *First Report and Order* ¶ 13; *see also In the Matter of Implementation of 911 Act, The Use of N11 Codes and Other Abbreviated Dialing Arrangements,* Fourth Report and Order and Third Notice Of Proposed Rulemaking, CC Docket No. 92-105, Notice of Proposed Rulemaking, WT Docket No. 00-110, 15 FCC Rcd 17079 ¶ 20, n.29 (rel. Aug. 29, 2000).

[75] Sprint PCS Petition at 14; Verizon Wireless Petition at 13-16.

[76] Nextel Petition at 7 n. 11 (emphasis added).

[77] *Id.* at 6-8.

United Way/AIRS recognizes the various wireless technical implementation issues and will cooperate with wireless carriers and other community service providers to ensure that the system works effectively and efficiently. Indeed, I&R providers intend to work with wireless carriers to develop a 211 wireless implementation plan that is cost-effective and consumer friendly. At the same time, United Way/AIRS believes wireless carriers are able and should be required to provide 211 routing. At a minimum, United Way/AIRS requests that the Commission require wireless carriers to assign the 211 code within their systems for community information and referral services while the Commission and the industry work out the various technical issues impacting wireless carriers. This would enable the immediate continued implementation of 211 in landline networks and ensure that the code will be deployed in wireless networks as soon as practicable. Such a plan would also address some of the petitioners' concerns regarding the difficulty and expense of performing multiple N11 translations within switches.[78] We see no reason why the wireless industry cannot quickly resolve 211 implementation issues utilizing the experience it has developed in implementing other N11 codes such as 311, 711 and 911.

[78] CTIA Petition at 5.

CONCLUSION

For the reasons explained above, the Petitions for Reconsideration filed by CTIA, Qwest, Sprint Spectrum, and Verizon and the Request for Clarification filed by SBC should be dismissed, or, in the alternative, denied.

Respectfully submitted,

__/s/_Ilsa Flanagan_____

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CERTIFICATE OF SERVICE

I, Angela Simpson, certify that on this 12th day of April 2001, copies of the attached Opposition to Petitions for Reconsideration, filed today with the Federal Communications Commission, were served, via first-class mail, postage prepaid, on the following parties:

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ATTACHMENT A

211 STATE UPDATES

April 2001

Arizona

A collaborative, including Valley of the Sun United Way, Community Information & Referral, the Governor's Office, and the Department of Economic Security, are developing a 211 implementation plan for the Phoenix metropolitan area and eventually the state.

Colorado

Mile High United Way in Denver and FirstCall, an independent I&R in Fort Collins, are co-chairing a committee to implement a regional hub model for a statewide 211 system. The Public Utility Commission and Qwest have been very cooperative.

Connecticut

United Way of Connecticut implemented 211 statewide in 1999. Since switching from a ten-digit toll-free number to 211, the volume of calls has increased 40 percent. In 1999, 211 handled 200,000 calls. In the first six months of 2000, 211 handled over 137,000 calls. Among the categories of top service requests were: utilities/heat, housing, mental health services, financial assistance, and health care.

Delaware

United Way of Delaware anticipates that the state legislature will pass a joint resolution in the next couple weeks setting up a legislative task force to study how to implement 211 statewide. Delaware currently has a statewide I&R service that is an information resource for public and private services that received 300,000 calls last year.

District of Columbia

The phone number for Answers Please, the District's I&R service, currently is INFO211. Answers Please is working with the Public Service Commission and Verizon to convert INFO211 to 211. Answers Please is funded by the Department of Human Services and offers information about and referrals to private and public resources.

Florida

The Public Service Commission has indicated that it does not have authority under the FCC's 211 order to implement 211, so the Florida Alliance of Information and Referral Services (FLAIRS) and United Way of Florida held a meeting with local telecommunications providers. Several FLAIRS I&R members are working with telecommunications providers to acquire 211 and several I&Rs (including ones in Miami-Dade, Broward County and Palm Beach County) anticipate providing 211 within twelve months.

Georgia

There are three 211 call centers currently operating in Georgia.

- United Way of Metropolitan Atlanta implemented 211 in 1997 and since switching from a ten-digit toll-free number to 211, the volume of calls has increased 40 percent. In 1999, 211 handled 200,000 calls.
- CONTACT-Helpline, serving five counties in the greater Columbus area, started 211 service in January 2000.
- Community Connections of Northeast Georgia, serving eleven counties around Athens, started service in February 2001.

United Way of Central Georgia will begin 211 service in June 2001, serving seven counties and plans to expand service to nine additional counties within the next year. United Way of the Coastal Empire will provide 211 service in three counties by 2002. United Ways of Georgia Association and the Georgia Alliance of Information and Referral Systems are partnering to facilitate 211 service expansion throughout the state.

Idaho

2-1-1 Idaho plans to launch a 211 pilot in 2001 and has been collaborating with state government, telecommunications providers, and human services providers.

Illinois

This year, the Illinois General Assembly passed a bill establishing a Human Services 211 Collaboration Board and requiring grants to be awarded and pilot programs to be operational by July 1, 2002.

Louisiana

Lafayette General Medical Center and the comprehensive I&R in Lafayette provide 211 in a six-parish area surrounding Lafayette and are seeking 211 for a five-parish area surrounding Lake Charles.

Maryland

The 211 Maryland Task Force, which includes Maryland State Association of United Ways, local and state health and human service organizations, I&R providers across the state, and local and state government, is pursuing statewide implementation. The 211 Maryland Task Force is developing a statewide I&R system, expected to be operational in 2002.

Massachusetts

Mass211 expects to have 211 operational statewide by the end of 2001. A Mass211 study found that even with substantial state funding for a statewide 211 system, such a comprehensive I&R will actually save the state money.

Michigan

In June 2000, the state legislature passed legislation approving the use of 211 as an abbreviated dialing code to be used "only for community information & referral." The legislation directs the Public Service Commission to issue orders to local exchange carriers and requires PSC to consider the recommendations of the Michigan Alliance of Information & Referral Systems (MI-AIRS) with Multipurpose Collaborative Bodies as they identify I&R 2-1-1 call centers.

The Michigan 211 Collaborative, which includes the Michigan Association of United Ways, MI-AIRS, I&R centers, human services agencies, and state government, met with the PSC, and at its recommendation, submitted a petition which would grant the MI-AIRS 211 for community I&R. Michigan will have up to 30 call centers providing coverage statewide and becoming operational on a rolling basis. The Michigan 211 Collaborative anticipates that all counties will have 211 access within four years.

Minnesota

United Way of the Minneapolis Area anticipates that 211 will be available in the Minneapolis ten county area at the end of June 2001. United Way of the Minneapolis Area's current I&R, First Call for Help, assisted over 250,000 callers in 2000.

Nebraska

The NE 211 Coalition, which includes United Ways, I&Rs and state government, intends to implement 211 statewide with one central hub. The Coalition plans to have 211 operational in some parts of the state by January 2002.

New Jersey

The New Jersey 211 Partnership, a joint effort between the Alliance of Information & Referral Services of NJ and the United Ways of New Jersey, submitted a request to the NJ Board of Public Utilities requesting assignment of 211 to the NJ Partnership so it could assign 211 to local centers based on its statewide implementation plan. The Partnership is currently in the process of selecting a statewide 211 implementation model.

New Mexico

United Way of Central New Mexico plans on having 211 operational in July or August 2001 in the four county Albuquerque area. The PUC is supportive of 211 and the United Way is pursuing statewide implementation.

New York

The 211 New York Collaborative, co-sponsored by NYSAIRS (New York State Alliance of Information and Referral Systems) and the United Way of New York State, is developing a statewide plan for implementation of a 211 I&R system. The PSC has pledged to assist with the implementation of the code and both the PSC and New York State Telecommunications Association recognize the Collaborative as the entity to implement 211. The Collaborative intends to have a defined number of regional call centers (approximately 10-12) as 211 hubs,

with implementation by 2004. Three demonstration sites are planned to launch in the Taconic, Western and Finger Lakes regions in 2002. The Collaborative anticipates that 211 implementation legislation will be introduced shortly in the state Senate.

North Carolina

The North Carolina Utilities Commission awarded the United Way of North Carolina 211 in November 1999. Four pilot sites will be operational in 2001: Triangle United Way covering Wake, Durham, Chatham and Orange Counties; United Way of Central Carolinas covering Mecklenburg, Union, and Cabarras Counties; United Way of Asheville covering Buncombe County; and the United Way of Greater Greensboro/the United Way of Greater High Point/the United Way of Forsyth County covering Guilford and Forsyth Counties. Triangle, Charlotte, and Asheville plan to launch their 2-1-1 operations in early May 2001 with the Guilford/Forsyth project to follow later in the year. Statewide implementation is planned over the next few years.

Ohio

The 211 Ohio Collaborative, which includes AIRS affiliates and United Ways, is working to implement 211 statewide. The Public Utility Commission of Ohio (PUCO) has approved 211 assignment for human services I&R and the 211 Ohio Collaborative has petitioned the PUCO to be the coordinating body for 211 implementation. Once telecommunications providers complete the necessary technical work, several counties can implement 211 immediately.

Oregon

Twelve Oregon counties are participating in the Oregon 211 Coalition to implement 211. A bill was introduced in the state legislature to implement 211 and the Coalition is working with the Governor's office.

Pennsylvania

The Public Utilities Commission "is in agreement with the United Way [of Southeastern Pennsylvania's] Petition that the assignment of the 211 abbreviated dialing code for community referral service is in the public interest and has many benefits," but dismissed the petition as moot because "the FCC did not establish a role for state commissions in assignment of the 211 abbreviated dialing code." The PUC instructed the United Way of Southeastern Pennsylvania "to notify Verizon Pennsylvania for the 211 abbreviated dialing code to be translated to their information and referral call center as per the procedure established in the FCC Third Report and Order." The United Way of Southeastern PA anticipates 211 service will be available in Fall 2001. United Ways in Pittsburgh and Harrisburg also are pursuing 211 implementation.

Rhode Island

Traveler's Aid, which operates the statewide Helpline I&R service, received 211 designation from the Public Utilities Commission. Traveler's Aid plans to have 211 operational in Summer 2001.

South Carolina

United Way of the Midlands in Columbia anticipates implementing 211 in Richland, Fairfield, Lexington and Newberry Counties in mid-2001. United Way of Greenville County is the designated 211 provider for an eleven county region in upstate SC (Abbeville, Greenville, Greenwood, Anderson, Saluda, McCormick, Oconee, Pickens, Spartanburg, Cherokee, Laurens, and Union Counties) which covers one third of the state's population, and plans to have 211 operational in 2001.

South Dakota

The Volunteer & Information Center (VIC) petitioned the Public Utilities Commission for 211 for its HELPline. In light of the FCC's 211 Order, the PUC dismissed the docket and instructed VIC to "contact the provider of telecommunications services directly to request the use of 211 for access to community information and referral services."

Tennessee

Knoxville Information and Referral operates a 211 call center, Just Ask 211. First Call For Help in Chattanooga and Contact Helpline, Oakridge plan to work with Knox County and the greater Memphis area to implement 211.

Texas

The Public Utility Commission of Texas designated 211 for community I&R services. The 211 partnership, a collaboration between United Way, local I&Rs and state government, intends to begin implementation in September 2001, with completion in three years.

Vermont

The Vermont 2-1-1 Collaborative will implement a centralized 211 system with a single call center serving the entire state and plans to be operational in 2002.

Virginia

Statewide infrastructure is in place, operated by United Ways and independent I&Rs.

Washington

United Ways are in the planning stages of 211 implementation.

Wisconsin

United Way of Dane County and the Milwaukee 211 Partnership anticipate that the Public Service Commission will approve their petitions for 211 assignment for Madison and Milwaukee respectively this month. These providers plan to have 211 operational in September 2001.