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September 21, 2001

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Hon. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 Twelfth St., S.W.
Room TW-A325
Washington, D.C. 20554

Re: Comments of the New York State Department of Public Service in the Matter of Verizon Wireless' Petition Pursuant to 47 U.S.C. § 160 for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation (WT Docket No. 01-184; CC Docket No. 99-200)

Dear Secretary Salas:

On July 26, 2001, Verizon Wireless ("Verizon") submitted a petition for forbearance from the local number portability ("LNP") requirements promulgated by the Federal Communications Commission ("Commission").[1] The New York State Department of Public Service ("NYDPS") submits these comments in response to the Commission's August 7, 2001 Public Notice (DA 01-1872) inviting comments on Verizon's petition. The NYDPS urges the Commission to deny Verizon's petition on the grounds that Verizon has not demonstrated that; it

[1] 47 C.F.R. § 52.31.

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can comply with the technical requirements for number pooling without being LNP capable; and, it has not demonstrated that competition will go unaffected.

Verizon suggests that it can provide number pooling in compliance with the Commission's Number Resource Optimization orders.[2] However, Verizon's plan would seem to result in number pools that are only available to that particular carrier. In other words, the only carrier that can receive thousand-blocks from Verizon's codes is Verizon. This is not pooling.[3] The Commission has stated that in order to be eligible for thousand-block number pooling, a carrier must be capable of assigning its numbers to another carrier.[4]

Further, Verizon claims that it can provide number pooling by the Commission's mandated deadline of November 24, 2002, without providing number portability. However, Verizon's position is contrary to the Commission's conclusions in its *First Report and Order*, that pooling is not technically feasible absent LNP.[5] Moreover, Verizon has not established that it can, as a technical matter, provide unused 1,000 block numbers to other carriers.

Verizon also maintains that effective competition would not be impaired by permanent forbearance of LNP requirements. To the contrary, even if pooling is possible absent LNP, competition will be affected. Without number portability, customers cannot change carriers

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[2] See Verizon's petition at pp. 3, 5, 9-12.

[3] Number pooling is the assignment of numbers to a particular carrier in groups of 1000 rather than groups of 10,000.

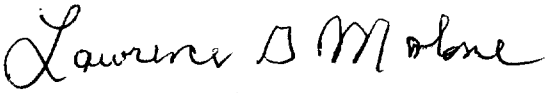
[4] In the *First Report and Order*, the Commission held that nothing in the record would lead it to conclude that "wireless (or wireline) service providers can implement thousand-block pooling prior to acquiring LNP capability, as it is number portability that allows a thousand-number block to be assigned to a carrier from an NXX that has been assigned to another carrier, thus permitting the contribution and distribution of thousand-number blocks." Number Resource Optimization, First Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd. 7574 at ¶¶ 116, 136-137 (rel. March 31, 2000)("First Report and Order").

[5] Id.

unless they are willing to change their numbers. As the Commission pointed out, the inability of customers to keep their telephone numbers when switching to other carriers "hinders the successful entrance of new service providers" and hinders consumer choice.[6] The NYDPS has received complaints from customers that their ability to switch wireless carriers is hampered by their inability to retain their numbers. Accordingly, Verizon's claim that competition will go unaffected if forbearance of LNP requirements is granted, is unsupported by the record developed in this proceeding.[7]

In sum, the NYDPS requests that the Commission deny Verizon's petition for forbearance from LNP requirements. Verizon has not demonstrated that it can comply with the Commission's pooling requirements while refraining from portability nor, has it demonstrated that competition will go unaffected.

Respectfully submitted,



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[6] First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, RM 8535 (Rel. July 2, 1996), ¶¶ 157 – 160.

[7] Id.