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May 3, 2002

Hon. Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals II
445 Twelfth St., S.W.
Washington, D.C. 20554

Re: Comments of the New York State Department of Public Service In The Matter Of Numbering Resource Optimization, et al., CC Docket Nos. 99-200, 96-98 and 95-116

Dear Secretary Dortch:

In the Numbering Resource Optimization, Third Report and Order, the Federal Communications Commission (Commission) extended local number portability (LNP) and thousands-block number pooling (pooling) requirements to all carriers within the largest 100 metropolitan statistical areas (MSAs), and gave non-compliant carriers six months from the effective date of the order to deploy LNP.[1] On its own motion, the Commission reconsidered and reversed those findings and issued the March 14, 2002 Further Notice of Proposed Rulemaking (FNPRM) asking whether it should reinstate LNP and pooling requirements to all carriers within the largest 100 MSAs.

The New York Department of Public Service (NYDPS) supports the Commission's continued refinement of its existing number resource optimization strategies. We urge the Commission to reinstate LNP and pooling requirements to all carriers, other than certain small, independent carriers, within the largest 100 MSAs. Doing so will encourage numbering resource conservation and have a positive effect on local competition.

[1] Numbering Resource Optimization, Third Report and Order and Second Order on Reconsideration, CC Docket No. 99-200, FCC 01-362 ¶ 125 (rel. Dec. 28, 2001)(Third Report and Order).

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In New York, carriers providing service in the largest 100 MSAs that are not LNP capable impede our ability to maximize numbering resources. For example, in the 315 area code pool, that was established last year, approximately 220 thousands-blocks or 220,000 numbers were not capable of being used by other carriers due to them not being LNP capable. Moreover, as the Commission previously concluded, the ability of consumers to keep their telephone numbers when changing carriers is essential for competitive markets to succeed.[2]

The NYDPS also supports requiring carriers in the largest 100 MSAs to participate in pooling. An extension of pooling in the largest 100 MSAs will have a positive effect on numbering resources. Our efforts in New York have proven this to be true. The NYDPS established pools in all numbering plan areas (NPAs) as of August 2001. As of February 2002, we have saved the equivalent of 454 full codes statewide.

Finally, the NYDPS supports exempting certain small, independent carriers that operate within the top 100 MSA's from LNP and pooling requirements. There are a number of these carriers operating in New York that have not received requests from competing carriers (CLECs) to serve their markets. Imposing LNP and pooling requirements on these carriers would require unnecessary upgrades. However, the Commission should require LNP or pooling capability if these carriers receive a bona fide request to make such capability available.[3]

Respectfully submitted,

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[2] Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 99-200, 15 FCC Rcd. 7574, 8368 (2000)(First Report and Order). The Commission also stated that lack of number portability would likely deter entry by competing carriers because of the value customers place on their telephone numbers. Id.

[3] Ensuring the benefits of LNP in these larger markets, while at the same time not requiring it to be available without a bona fide request from another carrier in the smaller markets, balances the needs of consumers and industry.