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 Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	

REPLY COMMENTS OF THE
UNITED STATES TELECOM ASSOCIATION

The United States Telecom Association (USTA), through the undersigned and pursuant to Federal Communications Commission (FCC) Rules 1.415 and 1.419,[1] hereby submits its reply comments in the above-docketed proceeding. USTA filed comments in this proceeding and urged the FCC to make no changes to its current local number portability (LNP) or thousands-block number pooling (Pooling) implementation requirements.[2]

SUMMARY

As stated in its comments, "USTA supports LNP implementation in those exchanges in the top 100 MSAs where more than one local exchange carrier (LEC) provides local exchange service. USTA opposes the expansion of LNP outside of the top 100 MSAs. USTA does not support mandatory LNP implementation for any 'rural telephone company,' as that term is

[1] 47 C.F.R. §§ 1.415 and 1.419.

defined at 47 U.S.C. § 153 (37), or 'two percent carrier' in the top100 MSAs where no bona fide request for LNP has been received by such rural or two percent carrier. Additionally, Pooling should not be expanded beyond the requirements of the FCC's current rule, which only requires Pooling for carriers capable of providing LNP."[3]

None of the comments filed herein causes USTA to revisit its position. USTA disagrees with the comments of the State Commenters[4] and WorldCom, Inc.[5]

DISCUSSION

The State Commenters ask the FCC to require that all carriers within the largest 100 MSAs be required to participate in pooling and be LNP capable regardless of whether they have received a request for LNP from another carrier.[6] WorldCom urges the FCC to require LNP capability and Pooling for all carriers throughout the 100 largest MSAs.[7]

None of the commenters that argue for mandatory LNP capability for all carriers within the largest 100 MSAs offers any evidence to demonstrate that competition will come sooner to any area, or be more broad-based, if the FCC requires all carriers within the top 100 MSAs to be LNP-capable regardless of whether they have received a bona fide request for LNP from another carrier. The FCC has "found that number portability contributes to the development of competition among alternative providers by, among other things, allowing customers to respond

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[2] *See* Comments of the United States Telecom Association (USTA Comments), filed herein on May 6, 2002, at 2.
[3] *Id*.
[4] *See* Comments of the Public Utilities Commission of Ohio (Ohio); Comments of the Michigan Public Service Commission (Michigan); Comments of the Iowa Utilities Board (Iowa) and Comments of the National Association of State Utility Consumer Advocates (NASUCA) (collectively, State Commenters), filed herein on May 6, 2002.
[5] *See* Comments of WorldCom, Inc. (WorldCom), filed herein on May 6, 2002.
[6] Ohio Comments at 2; Iowa Comments at 2 and 4; Michigan Comments at 6-7; and NASUCA Comments at 3.
[7] WorldCom Comments at 1.

to price and service changes without changing their telephone numbers."[8] But other than offering general statements concerning the competitive benefits that accrue from the implementation of LNP, these commenters fail to explain how the competitive benefits of LNP are realized if there is no bona fide request for LNP from a competitor. It would be unreasonable for the FCC to require a carrier within the top 100 MSAs to become LNP-capable, absent a bona fide request, because doing so appears "reasonably likely" to produce a customer benefit. It is far more reasonable to require that such costs be incurred only where there is greater certainty of customer benefit. Customers will only benefit from LNP when there is a competitive carrier ready to serve them. Nothing in the record demonstrates that customers have been denied the benefits of LNP as a result of the current policy that requires LNP capability in the top 100 MSAs only after receipt of a bona fide request. The record lacks a reasonable showing that additional customer benefit will be realized if the FCC changes its rule to require all carriers within the top 100 MSAs to be LNP-capable irrespective of their receipt of a bona fide request for LNP.

The FCC should never force unnecessary costs upon carriers. This is particularly true at a time when the telecommunications sector, in general, is depressed and carriers are moving aggressively to contain or reduce their operating costs. Even those industry analysts who support current FCC regulations recognize that no new regulatory burdens should be placed upon the telecommunications industry during the current downturn in the telecommunications sector.[9] It would be unjustified for the FCC to require carriers within the top 100 MSAs to incur the costs of becoming LNP-capable, absent a bona fide request for LNP, in better economic times. It

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[8] *Further Notice* at ¶ 7.
[9] *See* Communications Daily, Vol. 22, No. 97, May 20, 2002, at 2, *Policy Experts Examine Telecom 'Meltdown,' How to Cure It*.

would be exceedingly counter-productive for the FCC to require all carriers within the top 100 MSAs to be LNP-capable, absent receipt of a bona fide request for LNP, at this time.

USTA agrees with the comments of the National Exchange Carrier Association, the National Rural Telecom Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies (the Associations) concerning retention of the exemption from Pooling for rural carriers that have not received a bona fide request for LNP. As the Associations state in their comments:

> Both LNP and TBNP [thousands-block number pooling] are based on local routing number (LRN) network architecture. While LNP is intended to stimulate competition by allowing customers to change local carriers without changing telephone numbers, TBNP alleviates numbering shortages by allowing code sharing among carriers. Although a carrier could implement TBNP without fully implementing LNP, both capabilities require the same underlying switch functionality and associated switch upgrade expenditure. Carriers that cannot support TBNP or LNP in their existing software release must incur significant cost to make the necessary upgrades. Although the Commission seeks to maximize the effectiveness of number optimization measures such as TBNP by maximizing participation, it should ensure that the benefits justify the costs. Were rural ILECs required to participate in TBNP without the presence of competition in their service areas, they would not be able to donate numbering resources to the pool outside of their rate centers. For this reason, the Commission should provide an exemption from TBNP implementation for rural carriers that have not yet received a bona fide request to implement LNP.[10]

USTA believes that the point is equally applicable to two percent carriers. It is neither reasonable nor cost effective for the FCC to require Pooling by carriers that are not required to be LNP-capable. It is particularly unreasonable for the FCC to require rural or two percent carriers to Pool if they are not required to be LNP-capable. It is very unlikely that the expense can be justified. If there has not been a bona fide request made for LNP, there is little

[10] Associations Comments at 5-6.

reason to believe that critical mass exists that would allow for the benefits of Pooling to be realized. Accordingly, the FCC should retain its current rule that limits mandatory Pooling to LNP-capable carriers.

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION

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May 20, 2002

CERTIFICATE OF SERVICE

I, Meena Joshi, do certify that on May 20, 2002, Reply Comments Of The United States Telecom Association was either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the attached service list.

/s/Meena Joshi
Meena Joshi