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

In the Matter of	)	
	)	
Petition of the Connecticut Department of Public Utility Control for Authority to Conduct a Transitional Service Technology Specific Overlay Trial in Connecticut	)))))	CC Docket No. 99-200 NSD File No. L-02-03

COMMENTS OF AT&T WIRELESS SERVICES, INC. ON SUPPLEMENTAL INFORMATION TO SUPPLEMENTAL CTDPUC PETITION FOR AUTHORITY TO CONDUCT A TRANSITIONAL SERVICE TECHNOLOGY SPECIFIC SERVICE OVERLAY TRIAL

AT&T Wireless Services, Inc. ("AWS") respectfully submits these comments on the supplemental information ("Supplemental Filing") filed by the Connecticut Department of Public Utility Control ("CTDPUC") for its Supplemental Petition ("Petition") for authority to conduct a technology specific service overlay ("SO") trial.[1] The CTDPUC filed the supplemental information in this docket in response to concerns expressed by AWS and other carriers[2] that the CTDPUC's January 18, 2002 Petition for a SO failed to address or meet the required showing for obtaining authority to implement the SO trial. The CTDPUC's Petition continues to be somewhat unclear regarding certain aspects of the SO, but the Supplemental Filing does correct certain deficiencies. Although AWS continues to question whether an SO is preferable to an all services overlay or whether the CTDPUC has met its burden in this regard,[3] AWS' first priority

[1] *See* Public Notice, DA 02-1292, *Wireline Competition Bureau seeks comment on the Supplemental Information to the Supplemental Petition of the Connecticut Department of Public Utility Control for Authority to Conduct a Transitional Service Technology-Specific Overlay* (May 31, 2002) (comments due on June 14, 2002; reply comments due June 21, 2002).

[2] On February 26, 2002 and March 8, 2002, AWS also filed comments and reply comments on the underlying Petition of the CTDPUC to implement a SO.

[3] *See also* Sprint ex parte (May 21, 2002) at 3 (arguing that the CTDPUC has not adequately demonstrated that an SO is superior to an all services overlay.)

is to ensure the implementation of timely area code relief so that numbers are available to provide customers with the communications services they need, and with the competitive choices to which they are entitled.[4] Accordingly, AWS believes that the Commission could grant the CTDPUC Petition, as modified in the Supplemental Filing, provided that the Commission conditions the grant on the CTDPUC's timely implementation of area code relief;[5] a clear definition of the scope of the services to be included in the SO; and no take-backs of any numbers. With these conditions, AWS believes a SO for Connecticut would operate as follows:

- *Scope of Services:* the SO would include all non-pooling commercial mobile radio service ("CMRS") providers and the following non-geographic services: high-speed transport for automatic teller machine, credit-card approval, and unified messaging services[6]

- *Transition to All Services Overlay:* The SO would become an all-services overlay upon exhaust of the underlying codes; provided however that pooling capable carriers would be permitted to take numbers from the underling code[7]

- *10 Digit Dialing:* There will be no permanent waiver of ten digit dialing. Some temporary waiver may be permitted for education purposes.[8]

- *Geographic Area to be Covered:* One area code (rather than two) is used to overlay both the 203 and 860 NPAs[9]

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[4] *Matter of Numbering Resource Optimization*, FCC 00-429, Second Report and Order, Order on Reconsideration in CC Docket 96-98 and CC Docket No. 99-200 and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200 (2000) at para. 61 ("Second NRO Order") ("Under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for a want of numbering resources.")

[5] According to the NANPA 2002 Numbering Resource Utilization Form ("NRUF") and Number Planning Area ("NPA") Exhaust Analysis, the 203 code in Connecticut is projected to exhaust in the First Quarter of 2004. Thus, relief should be implemented by the Fourth Quarter 2003, or First Quarter 2004, at the latest.

[6] *See* Supplemental Filing at 3.

[7] Supplemental Filing at 5.

[8] *See* Supplemental Filing at 7. Although AWS does not oppose a temporary waiver of the 10DD Rule, AWS notes with some concern the call routing problems that carriers have experienced in New York with extended 7-digit dialing. *See* Nextel reply comments at 2.

[9] *See* Supplemental Filing at 1 (noting that the CTDPUC seeks authority to implement a SO); Sprint ex parte at 1, n.3 (noting that the CTDPUC appears now to agree that it should be eligible to receive only one SO code).

- *Date of Implementation:* The SO would be implemented in a timely manner.
- *Rationing:* Neither the SO nor underlying codes would be subject to rationing.[10]
- *Take Backs:* No take back of either wireless or non-geographic numbers would occur.[11]

I. AWS SUPPORTS THE CTDPUC'S CLARIFICATION THAT POOLING CAPABLE CARRIERS WILL BE ABLE TO HAVE ACCESS TO CODES IN THE UNDERLYING CODE

In its reply comments on the Petition, AWS noted that a number of commenters, including AWS, were concerned with both the discriminatory aspects and the potential permanence of an SO if the exhaust date were used as the trigger to an all services overlay.[12] AWS and other commenters suggested that both problems could be alleviated if wireless carriers could obtain access to numbers in the underlying code when pooling-capable.[13] Although it is somewhat unclear,[14] it appears that the CTDPUC adopts these commenters' suggestions in the Supplemental Filing and proposes that wireless carriers may participate in number pooling in the underlying area code.[15]

In its Supplemental Filing, the CTDPUC acknowledges that prohibiting pooling-capable wireless carriers from participation in pooling in the underlying code would be inequitable.

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[10] Petition at 8.

[11] Supplemental Filing at 4. Although the CTDPUC states affirmatively that it does not anticipate take-backs of wireless numbers and does not expressly request authorization to take-back non-geographic numbers, it appears to contemplate workshops to explore take-backs of non-geographic numbers. As discussed in these comments, AWS opposes such take-backs without further demonstration or justification to the Commission.

[12] *See* ,AWS reply comments at 5; *e.g.*, Sprint PCS comments at 6-8.

[13] AWS reply comments at 6; *see* Verizon Wireless comments at 6-7; Cingular Wireless comments at 7-8.

[14] Although AWS believes that it is the CTDPUC's intent to allow pooling-capable carriers to take numbers from the underlying code, there is some conflicting language in the Supplemental Filing. The CTDPUC states in the Supplemental Filing that "exhaust of the underlying area code would be delayed as telephone numbers for wireless and non-geographic based services would *be assigned from the SO rather than the underlying area code*." Supplemental Filing at 2. Given the CTDPUC's other statements on this issue, AWS assumes that the Commission's use of wireless in this context refers to non-pooling wireless carriers, e.g. paging carriers.

[15] Supplemental Filing at 5.

Specifically, the CTDPUC states that it is aware of the resources invested by the carriers to become LNP-capable and that carriers should not be required to incur those expenses without deriving some benefit in Connecticut.[16] In this regard, the CTDPUC proposes that: "participating Connecticut SO carriers will have the opportunity to pool numbering resources in the underlying NPAs just as they would if the Connecticut SO was not implemented."[17]

AWS also submits that permitting wireless carriers to participate in pooling promotes the efficient use of numbering resources.[18] AWS agrees with Sprint that there are a substantial amount of numbers that are available in the existing underlying area codes that wireless carriers should be able to access, and it would be wasteful and an inefficient allocation of numbers not to allow wireless carriers to obtain numbers from the pools in the underlying code.[19]

II. THE COMMISSION SHOULD EITHER REQUIRE CONNECTICUT TO FURTHER CLARIFY ITS SCOPE OF COVERED SERVICES IN THE SO, OR SHOULD ITSELF DEFINE THE SCOPE OF COVERED SERVICES

The CTDPUC's initial petition was impermissibly vague as to the services that it sought to include in the SO, in contravention of the Commission's requirements in the *Third NRO Order,*[20] and suggested possible take-backs of numbers without adequate support or justification. Although the Supplemental Filing attempts to address this deficiency, there is still a decided lack of clarity as to these issues. The CTDPUC Supplemental Filing states that it seeks to include non-geographic services "such as high speed transport (i.e., data lines) that are typically

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[16] Supplemental Filing at 5. *See also* Sprint PCS Ex Parte*:* As Sprint also notes in its recent *ex parte* on May 21, it is inherently unfair to require wireless carriers to incur millions of dollars to become pooling-capable, and not permit wireless carriers to participate in, and obtain numbers from, the existing number pools.

[17] Supplemental Filing at 5.

[18] *See, e.g*., Sprint ex parte at 4.

[19] *Id*.

[20] *Matter of Numbering Resource Optimization*, FCC 01-362, Third Report and Order and Second Order on Reconsideration in CC Docket No.96-98 and 99-200 (2001) ("*Third NRO Order*") at para.90

subscribed to for use by automatic teller machines ("ATM") or credit card approval," and unified messaging services, but it does not definitively define what services the CTDPUC considers to be "non-geographic."[21] Similarly, although the CTDPUC states that it intends to include "wireless" carriers in its SO, it does not provide a definitive list of the type of wireless services it would include, nor reconcile this statement with other statements in the Supplemental Filing regarding wireless carriers' ability to participate in pooling in the underlying code.[22] Equally troubling is the CTDPUC's continued reference to take-backs of non-geographic services without adequate support. In fact it appears that the CTDPUC does not intend to provide any details on any of either the scope of services to be included or the take back issues until after it holds workshops at some later date.[23]

The scope of services to be included in the SO and whether these will be subject to take-backs are critical threshold issues. The definition of services to be included must not be so amorphous as to lack definite guidelines for participating carriers, nor should the CTDPUC be allowed unilaterally to change its definition after it has obtained delegated authority, through workshops. Similarly the CTDPUC should not be allowed to continue to suggest the possibility of take backs of non-geographic numbers without providing a specific take back plan and providing adequate support for that plan. AWS submits that the Commission has two options that it could pursue at this juncture: (1) the Commission could require the CTDPUC to further clarify the services to be included in the SO prior to grant of the Petition and any proposed take backs of non-geographic services, (perhaps in a filing to the Commission after the technical

[21] Supplemental Filing at 3.

[22] Supplemental Filing at 3.

[23] Supplemental Filing at 4.

workshops that it proposes in its Supplemental Filing);[24] or (2) the Commission could itself define the list of services to be included in the SO in its decision. Under no circumstances, however, should the Commission allow any take backs on the record before it.

If the Commission takes the latter approach, AWS submits that the Commission should limit the non-geographic services to those specified in the Supplemental Filing: high-speed transport lines for ATMs and credit-card approval; and unified messaging services. These non-geographic services are consistent with those that the CTDPUC identifies in its Supplemental Filing.[25] The Commission should similarly specify that the wireless carriers to be included in the SO are non-pooling capable CMRS providers. This category of wireless services is generally consistent with the wireless services that the CTDPUC identifies in its Supplemental Filing of cellular, paging, and PCS,[26] and takes into account the CTDPUC's proposal that any pooling-capable wireless carriers would be able to take numbers from the underlying code. If there were additional services the CTDPUC wished to include, it could at a later date submit a petition to the Commission to expand the scope of the SO.

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[24] *See* Nextel reply comments at 3 (opposing industry technical conferences after the Commission delegates authority to the CTDPUC).

[25] Supplemental Filing at 3.

[26] Supplemental Filing at 3.

III. CONCLUSION

For the foregoing reasons, AWS respectfully requests that if the Commission grants the Petition, it do so conditioned upon the changes discussed here and in its comments and reply comments.

Respectfully submitted,

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/s/

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