

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

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Petitions for Reconsideration)	

WORLDCOM COMMENTS

Because there is no reason, in law or policy, why the customers of interexchange carriers (IXCs) should be forced to subsidize network upgrades made by incumbent local exchange carriers (ILECs) to provide thousands-block number pooling, WorldCom, Inc. (WorldCom) submits these comments in support of AT&T's petition for reconsideration (filed May 6, 2002).

In its *Third NRO Order*, the Commission found that costs incurred by ILECs to provide thousands-block number pooling were somehow "access-related," and thus appropriately recovered from IXCs and their customers.¹ In departing from its prior finding that local number portability (LNP) was *not* access-related, the Commission said:

LNP was an entirely new service and performed no network function that would benefit ILECs. It was implemented for the sole purpose of making it easier for subscribers to change carriers. Numbering administration, on the other hand, is a basic telephone network function. IXCs would not be able to route calls from their subscribers without a numbering system. Thousands-block number pooling is thus different from LNP because it is, essentially, an enhancement of existing numbering administration procedures designed to extend the life of the existing numbering system.²

¹ *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200, Third Report and Order (rel. December 28, 2001) (*Third NRO Order*), ¶ 34.

² *Id.*

This alleged distinction completely ignores the reasons why the Commission found it necessary to mandate thousands-block number pooling. A few paragraphs later, however, the Commission notes that the need for pooling “results from extraordinary growth of subscribership and the provision of new services in recent years, as well as the entry of new carriers that require blocks of numbers in each rate center.”³ Thus, according to the Commission, the need for numbering optimization measures including pooling was driven by: (1) subscriber growth; (2) new services; and (3) competitive entry.⁴

IXCs had nothing whatsoever to do with any of these things. Subscriber growth has primarily benefited the ILECs themselves. By new services, the Commission is likely referring to CMRS, paging, unified messaging, wireless concierge services, etc. The beneficiaries of these services are the carriers that provide them and the customers that purchase them – not IXCs and IXC customers. Finally, competitive entry refers to CLECs. Thus, the Commission is keenly aware that pooling was “caused” by and primarily benefits incumbent and competitive local exchange carriers, local exchange customers, wireless carriers, and wireless customers. Yet according to the Commission, because numbering administration is a basic network function, IXCs and their customers must pay not only the costs IXCs incur to support it, but also foot the bill for costs allegedly incurred by ILECs.⁵ The idea that long distance providers and their customers should guarantee the bottom lines of monopoly local exchange carriers, belongs to a

³ *Id.*, ¶ 36.

⁴ It is noteworthy that one of these causes, to facilitate competitive entry, is *identical* to the reason why the Commission found that costs incurred to implement LNP were not “access-related.”

⁵ As AT&T notes, the ILECs have sought recovery for hundreds of millions of dollars that they claim to have incurred to provide number pooling. AT&T Petition at 5.

different era. This outmoded philosophy has no place in the world envisioned by Congress in 1996.

Section 254(e) of the Telecommunications Act of 1996, requires that all subsidies for the provision of universal service be made explicit and sufficient.⁶ AT&T correctly observes that the U.S. Court of Appeals for the Fifth Circuit has, on three occasions, held that “the plain language of Section 254(e) does not permit the Commission to maintain any implicit subsidies.”⁷ By requiring IXCs and their customers to pay for costs that they did not cause, the FCC has plainly ordered the creation of new implicit subsidy in violation of Section 254(e).

The Commission’s misguided cost recovery scheme also violates the command of Section 251(e)(2) that numbering administration costs be “borne by all carriers on a competitively neutral basis.”⁸ As AT&T asserts, there is nothing competitively neutral about requiring IXCs to incur the costs of ILEC pooling implementation on top of their own pooling costs.⁹ Treating IXCs as a funding source for ILEC network operations and upgrades is very nearly the opposite of competitive neutrality.

WorldCom joins AT&T and, for the reasons described above, urges the Commission to reconsider its decision to shift ILEC pooling costs to IXCs and their customers.

Respectfully submitted,

WorldCom, Inc.

⁶ 47 U.S.C. § 254(e).

⁷ AT&T Petition at 2, citing *COMSAT Corp. v. FCC*, ___ F.3d ___ (5th Cir. 2001); *Allenco Comm. V. FCC*, 201 F.3d 608,623 (5th Cir. 2000); *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393,425 (5th Cir. 1999).

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⁸ 47 U.S.C. § 251(e)(2).

⁹ AT&T Petition at 4.