

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of the California Public	)	CC Docket No. 99-200
Utilities Commission for Waiver	)	
of the Commission's Contamination	)	
Threshold Rule	)	

**COMMENTS OF THE  
CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

The Cellular Telecommunications & Internet Association (“CTIA”)<sup>1</sup> hereby submits its comments on the September 5, 2002, Petition of the California Public Utilities Commission (“CPUC”) for a waiver of the Commission’s thousand-block contamination threshold rule.<sup>2</sup> While the predicate for the CPUC Petition is the impending exhaust of numbering resources in a number of California area codes, the CPUC continues to confuse the measures the Commission has adopted to insure the efficient utilization of scarce number resources, including Thousand Block Pooling and the 10 percent contamination threshold the Commission established as its national rule for carrier block donations, with its obligation to provide timely area code relief. The Commission’s

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<sup>1</sup> CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers all Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

<sup>2</sup> See Petition of the California Public Utilities Commission and the People of the State of California for Waiver of the Federal Communications Commission’s Contamination Threshold Rule (Filed Sept. 5, 2002) (hereinafter “CPUC Petition”); see also *Wireline Competition Bureau Seeks Comment on the Petition of the California Public Utilities Commission and the People of the State of California for Waiver of the Federal Communications Commission’s Contamination Threshold Rule*, CC Docket No. 99-200, DA 02-2822 (rel. Oct. 24, 2002) (setting December 13, 2002, date for comments on the CPUC Petition).

Number Resource Optimization efforts have been extraordinarily successful in extending the projected life of the North American Numbering Plan. There is no shortage of new numbering resources in the United States – the Commission’s rules have extended the projected life of the current numbering plan until at least 2031.<sup>3</sup> Under these circumstances, the CPUC must provide numbering relief in the codes that are now in jeopardy and within months of exhaust, rather than seeking a waiver that cannot be justified on the merits.

Just one year ago, the Commission adopted uniform national rules for number resource optimization, and phased out the interim relief it previously had granted states that had requested additional authority to address numbering issues on an *ad hoc* state-specific basis.<sup>4</sup> As the Commission found in the *First NRO Order*, the United States has a uniform numbering plan, and the number resource optimization rules should be administered on a uniform national basis.<sup>5</sup> There is no basis for the Commission to reverse direction and undo its Number Resource Optimization rules by permitting individual state-specific exceptions.

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<sup>3</sup> See North American Numbering Plan Expansion/Number Optimization, November 7, 2002, Final Report at 11-12 (stating that, depending on the degree of Rate Center Consolidation, the NANP exhaust date is now projected to occur between 2031 and 2040).

<sup>4</sup> See *Numbering Resource Optimization, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200*, 17 FCC Rcd 252 (2001) (hereinafter “Third NRO Order”).

<sup>5</sup> See *Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rule Making*, 15 FCC Rcd 7574, 7580 (2000) (hereinafter “First NRO Order”) (“Although we have delegated to the states certain elements of numbering administration, such as implementing area code relief, that are local in nature, numbering resource optimization policy is part of our role as guardian of the nationwide NANP resource.”).

According to the most recent forecast of the North American Numbering Plan Administrator (“NANPA”), a number of California area codes are facing imminent exhaust. This situation is most acute in the 310 and 909 area codes, where exhaust is forecast to occur no later than mid-2003. As a result of the CPUC’s contumacious refusal to establish a relief plan in these codes, within six months or less these codes will exhaust and consumers seeking to establish new telephone services in the communities served by these area codes will be forced to wait until a number becomes available by virtue of an existing subscriber discontinuing service.

The CPUC Petition to increase the contamination threshold from 10 percent to 25 percent will not provide any long-term numbering relief for California consumers. In fact, in the 310 and 909 area codes, the CPUC Petition would provide almost no relief whatsoever. Even in area codes that are not on the brink of exhaust, the one-time gain from increasing the contamination threshold would provide limited societal benefits, since area code relief would not be avoided, but rather would be deferred for only a few months at best. Even those transitory benefits would be illusory, since carriers who are eligible to draw Thousand Blocks from the pool would receive fewer assignable numbers in each block, entitling the carrier to immediately request additional Thousand Blocks.<sup>6</sup> Since the demand for additional Thousand Blocks will be directly proportional to the contamination levels of the Thousand Blocks assigned to carriers, the increased demand will negate the benefits alleged by the CPUC Petition.

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<sup>6</sup> By way of illustration, if a carrier was entitled under the Commission’s NRO rules to obtain four thousand new numbers from the pooling administrator, the carrier would request four Thousand Number blocks. If each of the four blocks assigned to the carrier was “contaminated” at the proposed 25 percent threshold, the carrier would receive only three thousand assignable numbers ( $750 \times 4 = 3000$ ), and immediately would be able to request a fifth Thousand Number block.

While the benefits associated with raising the contamination threshold would be short term, at best, if not wholly illusory as described above, the administrative and operating costs to carriers (and thus their customers) will be real and substantial. In establishing the ten percent contamination threshold, the Commission weighed these costs against the benefits of a higher utilization threshold to its number resource optimization goals. The CPUC Petition provides no basis for the Commission to revisit or change its decision to adopt ten percent as the appropriate contamination threshold. Accordingly, CTIA supports the 10 percent contamination threshold as a national standard for carrier Thousand Block donations, and opposes the CPUC Petition to raise the contamination threshold to 25 percent in the State of California.

**I. THE NUMBERING SITUATION IN THE 310 AND 909 AREA CODES HAS REACHED A CRISIS STAGE**

As CTIA has noted in previous comments to the Commission,<sup>7</sup> the numbering shortage in Southern California has reached a crisis stage. According to the most recent North American Numbering Plan Administrator (“NANPA”) report, presented at the November 19, 2002, North American Numbering Council (“NANC”) meeting, the 310 and 909 area codes are currently forecast to exhaust by the second quarter of 2003.<sup>8</sup> The exhaust of the 310 and 909 area codes will result in severe customer confusion and economic dislocation as businesses and consumers are forced to chose between waiting for new telephone service in their local community, or going outside of their local

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<sup>7</sup> See, e.g., Comments of the Cellular Telecommunications & Internet Association, CC Docket No. 99-200 (filed Nov. 25, 2002).

<sup>8</sup> See North American Numbering Plan Administrator Report to the North American Numbering Council, November 19-20, 2002, available at <http://www.nanc-chair.org>.

community and incurring additional toll charges and disparate and discriminatory dialing patterns to establish new telephone service if they do not want to wait for an incumbent subscriber to die or move out of the affected area code.

In the past, the Commission has informed the CPUC that under “no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for want of numbering resources.”<sup>9</sup> Unfortunately, the CPUC has refused to act in a timely manner to ensure sufficient numbering resources, preferring instead to seek relief from the Commission that cannot be squared with the Commission’s rules or justified under the established waiver standard. Therefore, it is imperative that the Commission resolve this crisis by directing the CPUC to immediately implement a nondiscriminatory solution (such as an all-services overlay code) that will provide long-term numbering relief for Southern California consumers.

## **II. AN INCREASE IN THE CONTAMINATION THRESHOLD WILL NOT PROVIDE ANY SUBSTANTIAL NUMBERING RELIEF AND WILL IMPOSE SUBSTANTIAL NEW COSTS ON CONSUMERS**

Rather than proposing a comprehensive long-term solution to the California numbering crisis, the CPUC contamination threshold plan offers an extremely short-term solution with very high costs. The benefits of the proposal should be measured in the costs California residents might avoid if the plan were to be adopted. Unfortunately, no costs would be permanently avoided, since the only benefit, if any, associated with the CPUC proposal would be a short deferral of the need to implement area code relief. In a December 6, 2002, Report, the Issue Management Group (“IMG”) of the North American

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<sup>9</sup> *California Public Utilities Commission Petition for Delegation of Additional Authority Pertaining to Area Code Relief and NXX Code Conservation Measures, Order*, 14 FCC Rcd 17486, 17490 (1999) (hereinafter “California Delegation Order”).

Numbering Council (“NANC”) released the results of an analysis of the probable effects of the CPUC plan.<sup>10</sup> In the report, the IMG conducted two analyses of the impact of the proposal to increase the contamination threshold in California area codes. Both analyses used many of the same assumptions in forecasting the projected life of an area code, however, the first analysis (“Analysis A”) eliminated external factors and assumed no additional NXX codes would be available in the NPA, whereas the second analysis (“Analysis B”) assumed that further NXXs would be available for assignment.<sup>11</sup>

The results of the IMG report show that an increase in the contamination threshold will not provide any relief in the area codes near exhaust. This not surprising, since the CPUC has rationed the assignment of new numbering resources in the affected area codes, forcing carriers to fully utilize all available numbering resources, even though this rationing has inconvenienced customers and raised carriers’ administrative costs. As a result of such rationing, in most cases both wireless and wireline carriers’ utilization levels will far exceed the proposed twenty-five percent threshold, resulting in very few additional numbering resources being made available to the pooling administrator. In the 909 area code, for example, both Analysis A and Analysis B indicate that an increase in the contamination threshold will increase the life of that code by no more than one month.<sup>12</sup> Similarly, in the 310 area code, Analysis A indicated that an increase in the contamination threshold would increase the life of that code by only one month, whereas

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<sup>10</sup> See Report on the Technical Viability of Increasing the Pooling Contamination Threshold, NANC Contamination Levels Issue Management Group, December 6, 2002 (filed Dec. 11, 2002) (hereinafter “IMG Report”).

<sup>11</sup> See *id.* at 3-4.

<sup>12</sup> See *id.* at 12-15.

Analysis B indicated that the life of the 310 area code would be increased by a mere two months.<sup>13</sup> Accordingly, an increase in the contamination threshold will provide almost no net benefit in the area codes where numbering relief is needed immediately.

On the other hand, an increase in the contamination threshold will increase carriers' administrative costs, costs that in a competitive market are passed through to consumers. According to the IMG report, while a increase in the contamination threshold may be feasible, "[b]ased on Analysis A it would be difficult to cost justify expenditures to increase the contamination level from 10 percent to 25 percent."<sup>14</sup> Under Analysis B, even though the IMG stipulated that "cost would not be a factor in the analysis," the report found that carriers' "OSS changes were identified as having a high impact on implementation costs."<sup>15</sup> Accordingly, because the benefits associated with extending the life of an existing area code are slim to none, while the implementation costs consumers will bear are very real, the CPUC has failed to justify its request to increase the contamination threshold as a solution to California's current numbering crisis.

The Commission has recognized that a uniform, nondiscriminatory national approach to number resource optimization is critical to achieving its goal of efficient number utilization. Grant of the CPUC Petition would undermine the national system of ensuring that adequate numbering resources are available. Since the *Local Competition Second Report and Order*, the Commission has recognized that implementing numbering relief "is a critical component of encouraging a robustly competitive telecommunications

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<sup>13</sup> See *id.*

<sup>14</sup> See *id.* at 16.

<sup>15</sup> See *id.* at 17.

market in the United States.”<sup>16</sup> Furthermore, in the *First NRO Order*, the Commission expressly stated that “uniform standards for thousands-block number pooling are necessary to minimize the confusion and additional expense related to compliance with inconsistent regulatory requirements.”<sup>17</sup>

In the *First NRO Order*, the Commission adopted a national ten percent contamination threshold, based on the compromises and recommendations contained in two reports submitted to the Commission by the North American Numbering Council (“NANC”) and the Industry Numbering Committee (“INC”).<sup>18</sup> In that Order, the Commission considered and rejected a proposal “to set a twenty-five percent contamination threshold for ILECs and a ten percent threshold for CLECs.”<sup>19</sup> In rejecting that proposal, the Commission recognized concerns that such a plan would not only discriminate against certain subsets of carriers, but would also require “significantly more administrative effort” to implement.<sup>20</sup> In this case, if the CPUC Petition is granted, it would not only add a new burden to carriers operating in California, it would also undermine the ten percent contamination threshold the Commission established as the national standard. This patchwork approach would require carriers to change their operating support systems – the costs of which would be passed on to consumers.

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<sup>16</sup> *Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order*, 11 FCC Rcd 19392, 19508 (1996).

<sup>17</sup> *First NRO Order*, 15 FCC Rcd at 7651.

<sup>18</sup> *See id.* at 7660-61 (noting that “[b]oth the NANC Report and INC Number Pooling Report recommend that carriers donate thousands-blocks with up to a ten percent threshold contamination level to a pool within a rate center”).

<sup>19</sup> *See id.* at 7661.

<sup>20</sup> *See id.* at 7661, n. 463 (citing the Comments of AT&T Corporation).

**III. THE COMMISSION SHOULD REJECT THE CPUC PETITION AND IMMEDIATELY ORDER THE CPUC TO IMPLEMENT ALL-SERVICE OVERLAYS IN AREA CODES NEARING EXHAUST**

As detailed above, an increase in the contamination threshold to 25 percent will have little to no impact on California's imminent numbering crisis, and will impose substantial new costs on carriers and consumers. Accordingly, the CPUC Petition should be rejected. Instead, the Commission should again reiterate that interim measures are no substitute for timely area code relief, and order the CPUC to immediately implement an all-services overlay in the 310 and 909 area codes. There is no substitute or administrative work-around for the immediate relief of the 310 and 909 area codes, combined with timely area code relief in other California area codes when they near exhaust. The limited one-time measure of raising the contamination threshold will have little net effect on extending the life of existing area codes, but it will most certainly disadvantage Californians by increasing the cost of providing telecommunications services to California consumers. That is why the Commission was wise to separate the steps carriers must take to ensure the efficient utilization of numbering resources from a state's obligation to provide timely area code relief, and why the Commission must reject the CPUC Petition.

## CONCLUSION

For the aforementioned reasons, the Commission should reject the Petition of the California Public Utilities Commission, and should immediately order the California Public Utilities Commission to immediately implement all-services overlays in the 310 and 909 area codes.

Respectfully submitted,

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