



N A R U C  
National Association of Regulatory Utility Commissioners

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December 6, 2002

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Secretary  
Federal Communications Commission  
445 12th Street S.W.  
Washington, D.C. 20554

**RE: Notice of Oral Ex Parte Comments – Two** Originals filed in the proceeding captioned:

*In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket Nos. **01-92, Y6-98** and **98-147**, Notice of Proposed Rulemaking, FCC 01-361 (rel. Dec. 20, 2001).

*In the Matter of Numbering Resource Optimization, Notice of Proposed Rulemaking*, CC Docket No. **99-200**; CC Docket No. **Y6-98**; CC Docket No **96-116**; **FCC 02-73** (Rel. March 14, 2002).

Madame Secretary:

On December 4, 2002, the President of the National Association of Regulatory Utility Commissioners (NARUC), Michigan Commissioner David Svanda, on December 5, 2002, the Chairman of NARUC's Committee Michigan Commissioner Bob Nelson, and on December 6, 2002, NARUC's 2<sup>nd</sup> Vice President, Washington UTC Chairwoman Marilyn Showalter met with FCC Commissioner Jonathan Adelstein and his personal staff.

During those meetings, all Commissioners generally reiterated arguments outlined in **NAKUC** (and Michigan) pleadings filed in the above-captioned CC Docket 01-92 proceeding. With respect to the Triennial Review on UNEs, they generally reiterated that any order in this proceeding should contain the following features:

**(1) NO STATE PREEMPTION:**

Any **FCC Order** should make clear no preemption is intended or should be implied - particularly with respect to additions to the National list imposed by States.

**(2) PRESUMPTIVE NATIONAL LIST THAT INCLUDES EXISTING UNE'S**

Any FCC list should, at a minimum, include all existing items

**(3) STATE CHECK OFF BEFORE A UNE IS LISTED**

Carriers that want to remove an item from the list must make a factual case before a State commission

**(4) TIMING OF IMPACT OF STATE DECISION**

Any challenged UNE stays on the required list until State commission makes contrary finding

(5) CAUCIJS WITH STATES NECESSAKY PREREQUISITE

FCC should caucus with State commissions extensively before promulgating the "necessary and impair" standard used to evaluate if a UNE should be available.

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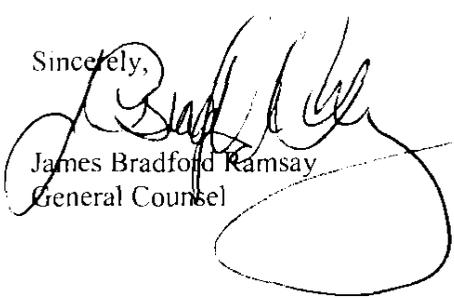
(6) STATE AUTHORITY TO ADD UNES CONFIRMED.

FCC should confirm its previous ruling that States RETAIN the right to add to the national list after hearing based on State and Federal law.

Only Commissioner Svanda discussed issues from the second proceeding listed above that deals with local number portability. He re-emphasized NARUC's agreement that with the original FCC findings that "number portability contributes to the development of competition among alternative providers by . . . {1} allowing customers to respond to price and service changes without changing their telephone numbers, {2} enabl(ing) carriers to alleviate number shortages by implementing code sharing and other mechanisms to transfer unused numbers among carriers that need numbering resources." NARLJC also agreed with the Docket No. 99-200 *Further Notice of Proposed Rulemaking's* statement that: "[t]hese benefits weigh in favor of a requirement that all local exchange carriers and covered CMRS carriers in the top 100 MSAs be LNP-capable, regardless of whether they receive a request from a competing carrier." We urge the FCC to act quickly to confirm its December 2001 findings eliminating the request requirement.

If you have questions about this filing, please do not hesitate to contact me at 202.898.2207 or jramsry@naruc.org.

Sincerely,

  
James Bradford Ramsay  
General Counsel

CC: Lisa Zaina, Senior Legal Advisor  
Eric Einhorn, Interim Wireline Competition Legal Advisor  
William Maher, Wireline Competition Bureau Chief