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

FOURTH REPORT AND ORDER IN CC DOCKET NO. 99-200 AND CC DOCKET NO. 95-116, AND FOURTH FURTHER NOTICE OF PROPOSED RULEMAKING IN CC DOCKET NO 99-200

Pursuant to the Federal Communications Commission's ("FCC") procedural schedule established in the above dockets, the Michigan Public Service Commission ("MPSC") hereby submits its comments.

I. INTRODUCTION

Competition is the cornerstone of the Telecommunications Act of 1996; however, competition is also a significant factor in the equation for number optimization and conservation. With competition, even in rural areas, comes the increased demand for more, not less, numbering resources and the need for conservation measures that do not negatively impact telephone consumers.[1]

The demand for enhanced technologies is becoming more commonplace in rural areas, requiring numbering resources in rate centers that are far from the largest 100

[1] Changes to area codes, 7-digit local numbers, dialing plans that trigger unexpected expenses such as new letterhead and advertising decals.

Metropolitan Statistical Areas (MSAs).[2] The increasing number of wireless carriers applying for Eligible Telecommunications Carrier (ETC) status for Universal Service Fund (USF) dollars to provide service in high cost areas, should be proof enough that rural rate centers will be served by more than one carrier in the very near future.[3]

With the FCC's release of the August 5, 2003 Order, regarding California's Petition for a Waiver of the FCC's Contamination Threshold Rule[4], states again are taking on the responsibility for numbering resource conservation with creative solutions. Thousands block number pooling ("number pooling") was a successful effort due to the cooperative relationship between state and federal regulators, in both state number pooling trials and the transition of number pooling to the national Pooling Administrator ("PA"). Although the *Fourth Report and Order* provides many forms of delegated authority to state commissions, the *Order* overlooks the efforts of states in providing timely, effective number optimization procedures. State commissions are best suited to recognize those Number Planning Areas ("NPAs) and individual rate centers where multiple carriers and competition are affecting number conservation efforts.[5] It is imperative that individual states continue their work toward protecting existing NPAs, providing area code relief when necessary, and promoting the conservation of the current national telephone numbering system.

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[2] As determined by the 2000 U.S. Census, available at http://www.census.gov/population/cen 2000/phc-t3/tab03.pdf

[3] MPSC is currently reviewing ETC applications under the following dockets: U-13714, U-13751, U-13765.

[4] In the Matter of Numbering Resources and the Petition of the CPUC for Waiver of the FCC's Contamination Threshold Rule, *Order,* CC Docket 99-200 (FCC 03-196).

[5] Letter to the MPSC from the FCC, July 28, 2000, "we recognize that state commissions are uniquely positioned to understand local conditions and ensure that the interests of consumers are addressed" due to "their unique familiarity with local circumstances."

II. LIMITED NUMBER POOLING

In the *Fourth Report and Order*, the FCC requested comment on only one issue: whether the exemption from number pooling should be extended to carriers operating in rate centers with only two carriers.[6] Customers in rate centers with two carriers should be receiving the benefits of LNP, with the second carrier providing a bona fide request ("BFR") to the incumbent to ensure competition within the rate center. Once LNP is in place and customers are able to change carriers without changing their telephone numbers, less numbering resources are needed. To distribute individual CO Codes to multiple carriers, within a rate center, encourages unnecessary inventories and accelerates code depletion resulting in additional area code relief.

Number pooling in rate centers with only two carriers provides both carriers with sufficient numbering resources, while encouraging conservation. When two carriers provide service in a rate center, and as requests for advanced technologies increase, additional carriers will begin moving into the same area and request numbering resources. Nearly all NPAs have geographic diversities with rate centers considered metropolitan or suburban, and rate centers that are considered rural; however, the numbering resource allocation in each of these rate centers determines the need for area code relief, not just those rate centers determined to be highly populous.

III. BONA FIDE REQUESTS

Using BFRs, to determine the need for LNP, is a two-edged sword. Currently, BFR requests are between industry members, raising an increasing concern that these

[6] In the Matter of Numbering Resource Optimization, *Fourth Report and Order,* CC Docket 99-200 (FCC 03-126), ¶29.

requests may be modified or disregarded, as rural carriers prefer not to expend their capital to provide customers the benefits of competition. As a benefit, the competing carrier is able to request entire CO Codes (10,000 telephone numbers) from the North American Numbering Plan Administrator ("NANPA"), which may be more advantageous than offering price incentives or higher quality services to win over customers from the incumbent carrier. Without regulatory oversight of BFRs, the competitive mandate issued by Congress in 1996 may be ignored in the interest of maximizing profits.

IV. MICHIGAN'S EXAMPLE

Since July of 2000, Michigan has undergone extensive area code relief in six area codes.[7] The MPSC has participated in both public hearings on area code relief and in consumer forums to provide information on the need for area code relief in the state. In addition, the MPSC received delegated authority from the FCC to begin number pooling trials in Michigan and fully participated as number pooling transitioned to the federal program. The MPSC has provided the FCC with positive feedback regarding LNP and the benefits it provides for Michigan's rural communities. Michigan's upper peninsula, although considered extremely rural, is home to three major universities and is being developed as a virtual learning arena. Rural yes, progressive definitely.

The 517 NPA was split on October 6, 2001, creating the 989 NPA. Although the 517 NPA has 315 CO Codes available, the 2003 Numbering Resources Utilization and Forecast ("NRUF") report determined the exhaust date of the 517 NPA to be the 4thQ 2007. Therefore, unless there are significant decreases in carrier forecasts in the NRUF

[7] Since August 2000, the MPSC has issued Orders on six area code relief plans under docket nos.: U-12552, U-12588, U-12721, U-12850, U-12743, U-12880.

data, by late 2004 the MPSC will receive notification that area code relief planning will begin.

Due to the *Fourth Report and Order*, the 517 NPA exhaust date may be advanced. Number pooling began in the 517 NPA in September 2002, as directed by the *Third Report,* which placed the largest metropolitan areas in the 517 NPA (Lansing and Jackson) in the top 100 MSAs. The *Fourth Report and Order* has reversed that decision, allowing carriers in the 517 NPA to revert back to receiving CO Codes in rate centers not in the top 100 MSAs, including both of the largest municipalities in the 517 NPA. The potential termination of extensive pooling efforts in the 517 NPA is clearly an unintended consequence of the *Fourth Report and Order,* tying the hands of the MPSC in the 517 NPA, leaving area code relief as the only option.

V. CONCLUSION

The MPSC concurs with NARUC in requesting that the FCC "reconsider its decision to limit number pooling to the top 100 MSAs…(and) urges the FCC to allow States to implement number pooling, without petition to the FCC, <u>in all rate centers</u> (emphasis added) as each State sees a necessity, regardless of whether a rate center falls within one of the top 100 MSAs…"[8] As the MPSC has found in the 517 NPA, area code relief is only a temporary solution to the need for additional numbering resources. The MPSC requests the FCC to allow it to continue to pursue all forms of area code conservation, in all of Michigan's NPAs, through whatever means available, without negatively impacting customers.

[8] NARUC Resolution Regarding Pooling, approved July 30, 2003, Denver Colorado.

In addition, the MPSC requests that the FCC continue efforts to number pool in rate centers in which there are only two carriers. In rate centers with competing carriers, the carriers should be LNP-capable and therefore able to give the consumer a choice in provider while conserving telephone numbers through pooling. The prevention of numbering resource exhaust should occur in every rate center in every NPA.

Respectfully submitted,

MICHIGAN PUBLIC SERVICE COMMISSION

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