

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

In the Matter of:	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Petition of the California Public Utilities Commission for Authority to Implement Two Specialized Overlay Area Codes	)	DA 03-3262
	)	

**REPLY COMMENTS OF T-MOBILE USA, INC.**

T-Mobile USA, Inc. (“T-Mobile”) hereby replies to comments filed on November 17, 2003 regarding the petition filed by the California Public Utilities Commission (“CPUC”) seeking authority to implement two specialized overlay area codes (“SOs”) in California.<sup>1</sup> The comments reflect nearly unanimous agreement that the petition should be denied because the CPUC has failed to meet its burden to demonstrate that the proposed specialized overlays meet the criteria set forth in the Numbering Resource Optimization Third Report and Order, 17 FCC Rcd 252, ¶81 (2001) (“*Third Report and Order*”).<sup>2</sup> Moreover, as the CPUC’s own staff has recognized, the proposed SOs would

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<sup>1</sup> See *Public Notice*, Wireline Competition Bureau Seeks Comment on the Petition of the California Public Utilities Commission for Authority to Implement Specialized Overlay Area Codes, CC Docket No. 99-200, DA 03-3262 (Oct. 16, 2003). See also California Public Utilities Commission, Petition for Authority to Implement Specialized Overlay Area Codes, CC Docket Nos. 96-98 and 99-200 (Oct. 6, 2003) (“CPUC Petition”).

<sup>2</sup> See Joint Comments of Allied National Paging Association, American Association of Paging Carriers, Arch Wireless Operating Co., Inc., Metrocall Holdings, Inc. and Weblink Wireless I, L.P., CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (opposing petition); Comments of AT&T, CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (same); Comments of the California Small LECs, CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (same); Comments of the California Cable & Telecommunications Association, CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (same); Comments of the Cellular Telecommunications & Internet Association, CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (same); Comments of the Frontier Companies, CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (same); Opposition of j2 Global Communications, Inc., CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (same); Comments of MCI, CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (same); Comments of Nextel, CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (same); Comments of OnStar Corporation, CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (same); Comments of SBC Communications, Inc., CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (same); Comments of Sprint Corporation, CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (same); Comments of SureWest Telephone, CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003)

create new problems and impose significant costs on the public and the industry without resolving the number shortage in the 310 area code. Therefore, T-Mobile respectfully requests the FCC to deny the CPUC petition.

**I. THE CPUC HAS FAILED TO DEMONSTRATE THAT THE POTENTIAL BENEFITS OF THE PROPOSED SPECIALIZED OVERLAYS OUTWEIGH THE ASSOCIATED COSTS**

The FCC has made clear that SOs will be allowed only in specific circumstances where the benefits of the proposed SO to number resource optimization outweigh the inherently discriminatory impact of the SO.<sup>3</sup> In outlining the circumstances that might be permissible, the FCC described certain features that are disfavored because they increase the harms that SOs can cause, and thus make it very unlikely that the potential benefits of an SO could outweigh those harms.<sup>4</sup> As several commenters note, however, the proposed SOs contain several features that the FCC disfavors.<sup>5</sup> Indeed, T-Mobile opposed these same features in its comments and reply comments filed in response to the CPUC's last SO proposal.<sup>6</sup> The most offensive of these features include:

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(same); Opposition of Verizon, CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (same); Opposition of Verizon Wireless, CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (same); Comments of Vonage Holdings Corp., CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (same). *Cf.* Comments of the Michigan Public Service Commission, CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (supporting grant of the petition); Comments of the New York State Department of Public Service, CC Docket No. 99-200 & 96-98 (fil. Nov. 17, 2003) (same).

<sup>3</sup> See *Third Report and Order*, ¶ 80. See also, e.g., Comments of Verizon Wireless at 4 (noting that, when the FCC removed the blanket opposition against SOs, "it opened its door for states to use this tool only in limited circumstances where the proposals are tailored to minimize costs" and burdens on carriers where a substantial conservation benefit can be achieved).

<sup>4</sup> See *Third Report and Order*, ¶¶ 80-94.

<sup>5</sup> See, e.g., Comments of Verizon at 3-4.

<sup>6</sup> See Comments of T-Mobile, CC Docket No. 99-200 (fil. Nov. 25, 2002) (opposing CPUC's previous SO proposal, which contained many of the same flaws); Reply Comments of T-Mobile, CC Docket No. 99-200 (fil. Dec. 10, 2002) (same).

- **Takebacks**, which nearly all of the commenters oppose due to, among other things, the disruptive effect they have on consumers, who will be forced to reprogram their equipment and change business cards, stationary and other publication that contains their phone and fax numbers.<sup>7</sup> To make matters worse, the CPUC failed to (i) show that the affected consumers support the relinquishing of their phone numbers, (ii) provide incentives for carriers and customers to relinquish their numbers, and (iii) provide a phased-in approach to ease the burden on consumers and carriers.<sup>8</sup>
- **Permanent waiver of the mandatory ten-digit dialing rule**, which nearly all of the commenters oppose due to the dialing disparity, and resulting customer confusion, it would cause.<sup>9</sup> As Verizon pointed out, “a fax call from San Diego to Bishop 360 miles away (more than the distance between Washington and Hartford, Connecticut) would be dialed with seven digits, but would be a toll call – in fact it would be an interLATA call, presumably carriers by the customer’s presubscribed interLATA carrier. However, a 13-mile call to San Diego to a pager with a La Jolla number would be dialed with 11 digits and would be local.”<sup>10</sup> Under these circumstances, there can be no justification for the “unnecessarily complex and expensive mechanism for avoiding ten digit dialing” that the CPUC proposes.<sup>11</sup>
- **Continued rationing**, which nearly all of the commenters oppose because there is no reason to approve an SO plan that will not alleviate the underlying numbering crisis.<sup>12</sup>
- **No transition to an all services overlay**, which nearly all of the commenters oppose because it represents an extremely inefficient use of telephone numbers that will potentially lead to the stranding of the majority of numbers in the SO.<sup>13</sup>

In addition to containing nearly every feature that the FCC has identified as detrimental, the proposed SOs contain numerous flaws that the FCC did not identify, including the fact that (i) carriers do not currently track the type of services that would be included in the SOs, (ii) carriers would have to

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<sup>7</sup> See, e.g., Comments of Nextel at 7-9.

<sup>8</sup> *Third Report and Order*, ¶ 90. See also, e.g., Comments of Nextel at 9 (noting that the CPUC failed to even address the factors that the FCC requires state commissions to demonstrate when proposing number takebacks).

<sup>9</sup> See, e.g., Comments of SBC at 9-11 (explaining flaws associated with SOs that do not include ten-digit dialing); Comments of Nextel at 9-10 (same).

<sup>10</sup> Verizon Comments at 6.

<sup>11</sup> SBC Comments at 2, 9-11.

<sup>12</sup> See, e.g., *id.* at 11 (explaining flaws associated with continued rationing).

<sup>13</sup> See, e.g., Opposition of Verizon at 5 (discussing inefficiencies associated with proposed SOs).

modify their billing, provisioning and ordering databases to implement the SOs, (iii) carriers would have to install new facilities to implement the SOs, and (iv) the CPUC's proposal would result in the implementation of an area code in a manner that has never been attempted before.<sup>14</sup>

To make matters worse, the CPUC has left many important questions unanswered. For example, the CPUC has provided no explanation as to how the proposed SOs will work in light of the implementation of wireless LNP, which makes it even more difficult to keep track of how numbers are used.<sup>15</sup> In short, not only has the CPUC failed to justify its request consistent with the requirements set forth by the FCC or address many critical issues that the proposed SOs raise, the CPUC has not even shown that the plan is workable as a practical matter.<sup>16</sup>

In light of the fundamental flaws in the proposed SOs, it is difficult to imagine any situation in which any potential benefits could justify grant of the CPUC's petition. As Verizon and other commenters pointed out, the "CPUC utterly fails to show that the benefits of its proposal outweigh the costs to the public and the industry."<sup>17</sup> Indeed, as Nextel and SBC noted in their comments, the analysis of the CPUC's own staff, which identified only two advantages but over 17 disadvantages to the proposed SOs, demonstrates that the costs and potential harm associated with the proposed SOs significantly outweigh any potential benefits.<sup>18</sup> Therefore, T-Mobile agrees with the

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<sup>14</sup> See, e.g., *id.* at 4-6 (noting, among other things, that separate trunk groups could be necessary for 200 COs with non-SS7 end offices, for 911).

<sup>15</sup> See, e.g., Comments of Nextel at 6-7 (explaining why the proposed SOs are inconsistent with LNP).

<sup>16</sup> See, e.g., Comments of SBC at iii-2.

<sup>17</sup> Opposition of Verizon at 1.

<sup>18</sup> See, e.g., Comments of Nextel at 1 (explaining that the CPUC analysis "admirably details the flaws of the proposed SOs and, by itself, should convince the Commission not to give the CPUC Petition any serious attention"); Comments of SBC at 2 (noting the staff analysis and urging the FCC to deny the petition because the analysis demonstrates that the "cons" significantly outweigh the "pros").

overwhelming majority of commenters that the CPUC petition must be denied because the “cost-benefit is clear: a massive restructuring of the PSTN and associated systems, with its attendant costs and risks, significantly outweighs possible marginal benefits in the distant future.”<sup>19</sup>

## **II. THE FCC SHOULD DENY THE PETITION AND ORDER THE CPUC IMMEDIATELY TO IMPLEMENT RELIEF IN AREA CODE 310**

T-Mobile supports the nearly unanimous agreement among the commenters that the FCC should order the CPUC immediately to implement an all services overlay in area code 310 rather than granting the CPUC’s petition because the proposed SOs will consume two additional area codes without providing any additional benefit in terms of numbering resource optimization.<sup>20</sup> As Nextel and other commenters observe, the proposed SOs – one covering ten area codes (378 rate centers) in the north and the other covering 15 area codes (360 rate centers) in the south – has taken the concept that one area code can support demand in multiple underlying area codes to “its most illogical extreme,” risking tens of thousands of stranded numbers and even number exhaust in the SO.<sup>21</sup> Every LEC with customers in a rate center will have to have two blocks (instead of one) in each rate center, which will strand most of the numbers in the one or both of the blocks.<sup>22</sup> Moreover, because paging carriers are not LNP-capable and are excluded from participating in thousands-block pooling, in each rate center where they need numbering resources, paging carriers will have to obtain a full NXX code, which could potentially exhaust the new SOs.<sup>23</sup> Thus, the two SOs would be consumed very quickly

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<sup>19</sup> Comments of SBC at iii.

<sup>20</sup> *See, e.g.*, Opposition of Verizon Wireless at 6 (explaining need for area code relief).

<sup>21</sup> Comments of Nextel at 7-8.

<sup>22</sup> Opposition of Verizon at 5.

<sup>23</sup> *Id.*

with little to no return for the substantial investment by both customers and carriers to implement them.

The facts demonstrate that the CPUC immediately should implement relief for the 310 area code, which is at risk of exhaust within the next year, rather than experiment with a fundamentally flawed SO proposal that stretches across a much larger geography. As the majority of commenters observed, the FCC should not permit the CPUC to delay or attempt to avoid relief by petitioning for authority to implement SOs,<sup>24</sup> which the FCC has already found should not be implemented in area codes that have a projected life span of less than one year.<sup>25</sup> The FCC has stressed repeatedly the need for states to implement area code relief on a timely basis, because both consumers and carriers alike are severely harmed when they do not have access to adequate numbering resources.<sup>26</sup> Therefore, T-Mobile agrees with the overwhelming majority of commenters that the FCC should deny the petition and reaffirm the CPUC's responsibility under existing FCC rules and orders to provide conventional area code relief when and where needed, including immediate relief for the 310 area code.<sup>27</sup>

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<sup>24</sup> As Verizon Wireless noted in its comments, the filing of the petition was specifically cited in the CPUC's recent decision to again delay relief for the 310 area code and in the alternate decision presented by CPUC Commissioner Lynch, which would have delayed relief in the 909 area code. *See id.* at 2.

<sup>25</sup> *Third Report and Order*, ¶ 85 (“We believe that, to optimize their value, SOs should not be implemented when the underlying NPA has a projected life span of less than one year.”).

<sup>26</sup> Numbering Resource Optimization, Petition of the California Public Utilities Commission for Waiver of the Federal Communications Commission's Contamination Threshold Rule, 29 CR 1246, ¶¶ 11-12, 18 (rel. Aug. 11, 2003) (reiterating “long-standing policy that numbering resource optimization measures are not a substitute for needed area code relief” and holding that “[b]ecause of the severe shortage of numbering resources available in the 310 and 909 area codes, granting this petition will not obviate the need for immediate relief in these area codes.”).

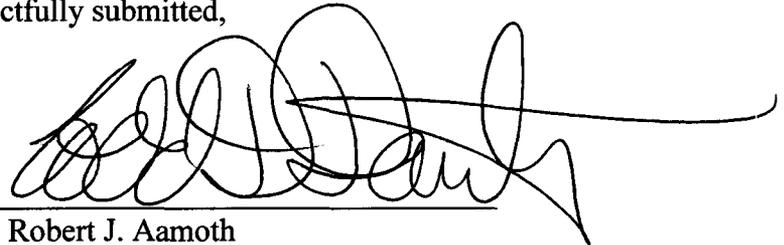
<sup>27</sup> *See, e.g.*, Opposition of Verizon Wireless at 9.

**III. CONCLUSION**

For the foregoing reasons, T-Mobile respectfully requests that the Commission deny the CPUC petition and order the CPUC immediately to implement an all-services overlay in area code 310.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of December, 2003, a copy of the foregoing Reply Comments of T-Mobile USA, Inc. was served via electronic mail or by regular mail on the following:

  
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