

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

In the Matter of

SBC IP Communications, Inc. Petition for
Limited Waiver of Section 52.15(g)(2)(i)
of the Commission's Rules Regarding Access to
Numbering Resources

CC Docket No. 99-200

COMMENTS OF BELL SOUTH CORPORATION

BellSouth Corporation, on behalf of itself and its wholly owned subsidiaries ("BellSouth"), hereby submits its comments in response to the *Public Notice*¹ seeking comment on the waiver petition filed by SBC IP Communications, Inc. ("SBCIP"). In its petition, SBCIP asks the Commission to waive Section 52.15(g)(2)(i) of the numbering rules to allow SBCIP to obtain numbering resources directly from the North American Numbering Plan Administrator ("NANPA") and/or the Pooling Administrator ("PA").²

As SBC acknowledges, the subject of this petition is one of a number of topics raised in the *IP-Enabled Services NPRM*.³ That docket's record is complete and all industry participants

¹ *Comment Sought on SBC IP Communications, Inc. Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Access To Numbering Resources*, CC Docket No. 99-200, *Public Notice*, DA 04-2144 (rel. July 16, 2004),

² SBC IP Communications, Inc. Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Access to Numbering Resources, CC Docket No. 99-200 (filed July 7, 2004) ("SBCIP Petition").

³ *IP-Enabled Services*, WC Docket No. 04-36, *Notice of Proposed Rulemaking*, 19 FCC Rcd 4863 (2004) ("*IP-Enabled Services NPRM*").

are waiting on conclusive action by the Commission. The issues related to IP-enabled services are complex and many, and the FCC should address all such issues in an integrated fashion for all industry participants, particularly in view of the fact that it is only reasonable to assume that if the waiver is granted, other voice over Internet protocol (“VoIP”) providers will quickly request “me-too” waivers subject to similar conditions granted to SBCIP. A comprehensive resolution of outstanding issues will result in market certainty and, ultimately, market certainty provides the quickest path to the development of new and innovative services.

I. INTRODUCTION AND SUMMARY

On July 7, 2004, SBCIP filed a petition with the Commission requesting a limited waiver of Section 52.15(g)(2)(i) of the Commission’s numbering rules. This rule requires an applicant seeking to obtain numbering resources to demonstrate that it “is authorized to provide service in the area for which the numbering resources are being requested.”⁴ The Commission has interpreted this rule to require “carriers [to] provide, as part of their applications for initial numbering resources, evidence (*e.g.*, state commission order or state certificate to operate as a carrier) demonstrating that they are licensed and/or certified to provide service in the area in which they seek numbering resource[s].”⁵ Thus, as SBC explains, “to obtain numbering resources directly from NANPA and/or the PA under current Commission rules, an applicant must be a state-certificated common carrier.”⁶ However, as an information service provider, SBCIP is not subject to state common carrier regulation. Acknowledging the Commission’s

⁴ 47 C.F.R. § 52.15(g)(2)(i).

⁵ *Numbering Resource Optimization*, CC Docket No. 99-200, *Report and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 7574, 7615, ¶ 97 (2000) (“*NRO Order*”).

⁶ SBCIP Petition at 6.

intent to minimize government regulation of IP-enabled services,⁷ SBC requests that the Commission allow it to obtain numbering resources directly from the NANPA and/or PA without becoming a state-certificated common carrier. SBCIP further commits to complying with all of the Commission's existing numbering resource requirements as a condition of grant of the waiver.⁸

Direct access to telephone numbers by providers of VoIP service is merely one of a vast number of complex and critical issues surrounding the regulatory treatment of IP-enabled services. This one issue cannot and should not be decided in a vacuum. The public interest requires that the Commission consider the broader implications and recognize that a grant of waiver in advance of the Commission's ruling in the *IP-Enabled Services* proceeding will establish a precedent that others are likely to follow in the interim. Thus, the Commission is obligated to make a decision that addresses all of the key public interest issues that already have been identified by the Commission in the *IP-Enabled Services* proceeding as important considerations to protecting the public interest.

Thus, it is appropriate for SBCIP to more fully explain how it intends to address key issues relating to how an information service provider will operate in using PSTN resources such as phone numbers to provide service. More specifically, the Commission should examine how SBCIP intends to address, for example: (1) compliance with additional numbering requirements; (2) the provision of emergency 911 services to its end users; (3) interconnection for exchange of traffic; (4) contributions to the universal service fund; and (5) payment of applicable access

⁷ *Id.*

⁸ *Id.* at 10.

charges. These are just some of the key public interest considerations that are open in the *IP-Enabled Services* proceeding.

II. NUMBERING ISSUES CANNOT BE ADDRESSED IN A VACUUM

Although SBCIP agrees to comply with “all existing Commission numbering resource requirements” (e.g., pooling requirements; number reporting requirements; number portability requirements; contribution to numbering administration costs),⁹ this commitment must be reviewed and refined. As an initial matter, under today’s current rules, only telecommunications carriers are subject to number portability and number pooling obligations. While BellSouth believes that it is appropriate to impose number conservation and administration obligations on providers using numbering resources for competing services, BellSouth notes that current regulations apply only to “telecommunications carriers.” As an example, Section 251(e) of the Act requires all “telecommunications carriers” to contribute to the costs of number administration.¹⁰ Although SBCIP has voluntarily agreed to share the costs of number administration, BellSouth is concerned that future “like” petitioners might try to avoid this and other numbering obligations by claiming that they are not “telecommunications carriers” subject to any such obligations. Whether through forbearance, ancillary, or some other statutory authority, the Commission must ensure that, regardless of the regulatory classification of SBCIP or its VoIP service, all entities who obtain numbers from the NANPA or PA comply with all numbering related obligations, including, but not limited to, the submission of numbering reports, participation in number pooling and portability, and sharing the costs of number

⁹ *Id.*

¹⁰ 47 U.S.C. § 251(e)(2); 47 C.F.R. § 52.17.

administration. If SBCIP (or any other VoIP provider) is allowed to share in the benefits and efficiencies associated with obtaining numbers directly from the NANPA, it also must be required to share the corresponding obligations.

The Commission must make clear that any commitment to comply with the Commission's numbering resource requirements also includes adherence to industry-approved standards and guidelines.¹¹ In a number of areas, such as central office code administration, number portability, and pooling, the Commission has incorporated the industry standards into its rules.¹² Accordingly, any entity that obtains numbers directly from the NANPA or PA must adhere to industry-approved numbering guidelines as well as the Commission's specific numbering rules.

In addition, to ensure that SBCIP is capable of satisfying its commitment to comply with the pooling and porting requirements, the Commission should require SBCIP to confirm, prior to obtaining numbers from the NANPA and/or the PA, that: (1) it has tested its capability to interface with the Number Portability Administration Center; and (2) it is technically capable of porting and pool numbers.

Although SBCIP's petition seeks a waiver of only one Commission rule (Section 52.15(g)(2)(i)), waivers of additional rules may, in fact, be necessary in order for SBCIP to obtain numbering resources directly from the NANPA and/or PA. For example, Section

¹¹ These guidelines include the Central Office Code (NXX) Assignment Guidelines (July 23, 2004) and the Thousands-Block Number (NXX-X) Pooling Administration Guidelines (July 23, 2004 and subsequent updates).

¹² See, e.g., *Telephone Number Portability*, CC Docket No. 95-116 & RM 8535, *Second Report and Order*, 12 FCC Rcd 12281 (1997); *NRO Order*, 15 FCC Rcd at 7657-58, ¶ 18 ("We therefore direct the industry and the national Pooling Administrator to follow the INC Pooling Guidelines relating to the functioning of the Pooling Administrator and entities requesting numbering resources from the Pooling Administrator.").

52.15(g)(1) of the Commission's rules and the numbering guidelines¹³ require all applications for numbering resources to include an Operating Company Number ("OCN").¹⁴ The Commission has explicitly stated that "the NANPA shall not issue new numbering resources to a carrier without an OCN."¹⁵ OCNs, however, are only assigned to telecommunications service providers. An OCN is necessary because it is used as a unique identifier in a variety of databases that house or store telephone numbers for pooling, porting, or other number administration purposes. For example, telephone numbers are included in the national Local Exchange Routing Guide ("LERG") based on a company's OCN. In addition, mechanized systems used by the NANPA and the PA have technical limitations based on the OCN. Unless an entity has an OCN, it cannot input information into the numbering administration system. OCNs also are required for the submission of the numbering resource utilization/forecast ("NRUF") reports mandated by the Commission.¹⁶

SBCIP has stated that it will satisfy the Commission's number reporting requirements; however, in the absence of an OCN, SBCIP cannot file its own NRUF reports. SBCIP's commitment to comply with the Commission's number reporting requirements clearly acknowledges the Commission's vested interest in the ability to monitor number utilization. The ability to track and monitor the use of numbering resources by providers takes on even greater importance as the Commission considers expanding the universe of providers able to obtain numbering resources directly from the NANPA and/or the PA. While BellSouth does not

¹³ See, e.g., Sections 4.1.1 and 4.1.2 of the Central Office Code (NXX) Assignment Guidelines and Section 8.3 of Thousands-Block Number (NXX-X) Pooling Administration Guidelines.

¹⁴ 47 C.F.R. § 52.15(g)(1).

¹⁵ *NRO Order*, 15 FCC Rcd at 7594, ¶ 41.

¹⁶ See 47 C.F.R. § 52.15(f)(3)(ii); *NRO Order*, 15 FCC Rcd at 7598, ¶ 52.

believe that compliance with the OCN requirement is insurmountable or cannot be waived by the Commission, it merely uses this requirement to demonstrate that there may be other related rules that should be reviewed by SBCIP and the Commission to determine their applicability.

As demonstrated above, a more comprehensive review of the Commission's numbering rules is necessary to determine the implications of granting the instant waiver request. Not only may there be additional rules which are affected, but also the Commission may have to apply existing statutory or regulatory tools to ensure that any potential loopholes or gaps are firmly closed.

III. PUBLIC INTEREST OBJECTIVES

A. Access to 911

Both Congress and the Commission have made it clear that the public must have access to prompt, reliable emergency service through the 911 system.¹⁷ It would be appropriate to require SBCIP explain in detail how it plans to provide this 911 capability to its customers.

B. Interconnection for the Exchange of Traffic

The issue of interconnection serves to highlight the interrelatedness of all of the key public interest issues surrounding VoIP. Carriers have vastly different obligations when interconnecting their networks for the exchange of traffic with other carriers than carriers have when providing service to end users. For the purposes of providing VoIP services, a fundamental question that SBCIP should address is how it plans to interconnect with carriers and

¹⁷ Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, enacted Oct. 26, 1999, 113 Stat. 1286, amending the Communications Act of 1934, 47 U.S.C. §§ 222, 251 ("911 Act"); 47 U.S.C. § 615; *Implementation of the 911 Act; The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, WT Docket No. 00-110; CC Docket No. 92-105, *Fourth Report and Order and Third Notice of Proposed Rulemaking* CC Docket No. 92-105, *Notice of Proposed Rulemaking* WT Docket No. 00-110, 15 FCC Rcd 17079 (2000).

how the interconnection arrangements will impact its fulfillment of other public interest obligations such as 911.

C. Contributing to Universal Service

Access to affordable telecommunications and information services at reasonably comparable rates by consumers throughout the nation is the lynchpin of universal service. As a competing provider of services, regardless of their classification as information services or telecommunications services, it is appropriate for SBCIP to fulfill the social responsibility of supporting universal service. In the Commission’s own words, “the public interest *requires* that, to the extent possible, carriers with universal service contribution obligations should not be at a competitive disadvantage in relation to [other] providers on the basis that they do not have such obligations.”¹⁸ It is appropriate for SBCIP to explain how it intends to address contributions to the universal service fund.

D. The Payment of Applicable Interstate Access Charges

In a footnote, SBCIP explains that “[w]hen interexchange traffic is delivered to an incumbent LEC for termination on the PSTN, the incumbent LEC is entitled to receive applicable access charges for that traffic under the Commission’s current rules – regardless of whether that traffic originated in IP format on a broadband network.”¹⁹ Indeed, SBCIP’s acknowledgment of the propriety of access charges is wholly consistent with the Commission’s recent statement that:

¹⁸ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report to Congress*, 13 FCC Rcd 11501, 11565, ¶ 133 (1998) (emphasis added) (“*Report to Congress*”).

¹⁹ SBCIP Petition at 3, n.6.

As a policy matter, we believe that any service provider that sends traffic to the PSTN should be subject to similar compensation obligations, irrespective of whether the traffic originates on the PSTN, on an IP network, or on a cable network. We maintain that the cost of the PSTN should be borne equitably among those that use it in similar ways.²⁰

BellSouth fully agrees with this position and urges the Commission to address this and all issues related to VoIP together and not in a piecemeal fashion.

IV. CONCLUSION

Allowing access to numbering resources in advance of resolution of the critical and complex issues raised in the *IP-Enabled Services* proceeding and for one carrier alone would not further the policy goals of this Commission. Accordingly, BellSouth proposes that the Commission act quickly and address all issues identified in the *IP-Enabled Services* proceeding.

Respectfully submitted,

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²⁰ *IP-Enabled Service NPRM*, 19 FCC Rcd at 4904, ¶ 61.

CERTIFICATE OF SERVICE

I do hereby certify that I have this 16th day of August 2004 served the following parties to this action with a copy of the foregoing **COMMENTS** by electronic filing addressed to the parties listed below.

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