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

In the Matter of	)	
	)	
Petition by the United States Department of Transportation for Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation System (ITS) Services Nationwide	)	NSD-L-99-24
	)	
Request by the Alliance of Information and Referral Systems, United Way of America, United Way 211 (Atlanta, Georgia), United Way of Connecticut, Florida Alliance of Information and Referral Services, Inc., and Texas I&R Network for Assignment of 211 Dialing Code	)	NSD-L-98-80
	)	
The Use of N11 Codes and Other Abbreviated Dialing Arrangements	)	CC Docket No. 92-105

REPLY COMMENTS OF THE UNITED WAY OF AMERICA AND THE ALLIANCE OF INFORMATION AND REFERRAL SYSTEMS

The United Way of America and the Alliance of Information and Referral Systems ("AIRS") ("United Way/AIRS"),[1] hereby replies to the comments filed in response to the Commission's request to refresh the record regarding pending reconsideration petitions related to the 211 and 511 abbreviated dialing codes.[2] The United Way/AIRS welcomes Commission action in this proceeding and hopes that the Commission will expeditiously affirm the 211

[1] The United Way of America is a national membership organization of approximately 1,400 community-based United Ways. AIRS is a national membership organization of over 1,000 information and referral service providers.

[2] *See Parties Asked To Refresh Record Regarding Reconsideration of the Designation by the Commission of 211 and 511 as Abbreviated Dialing Codes*, Public Notice, DA 04-3219 (rel. Oct. 8, 2004). The 211 code was designated for the purpose of community information and referral services on July 31, 2000. *See Use of N11 Codes and Other Abbreviated Dialing Arrangements*, Third Report and Order and Order on Reconsideration, 15 FCC Rcd 16753 (2000) ("*Third Report and Order*").

number assignment, which will help facilitate the deployment of 211 information and referral services nationwide.

Deployment and use of 211 is proliferating, and the public interest inherent in the 211 assignment is now more apparent than ever. Wireless consumers should not be deprived of access to these important services. The United Way/AIRS has pursued solutions to 211 implementation issues at the federal and state levels and has cooperated with carriers at every possible opportunity. The United Way/AIRS encourages Commission clarification on the implementation of the 211 assignment, including issues related to the states' authority to act and wireless routing issues.

INTRODUCTION AND STATUS OF 211 DEPLOYMENT

The Public Notice requests input regarding whether issues raised in the 211/511 reconsideration petitions have become moot or irrelevant in light of intervening events since the petitions were filed in 2001.[3] The United Way/AIRS believes that the public interest value of the 211 assignment has largely borne itself out since the number was assigned in 2000, due to the proliferation and success of 211 community and information referral services throughout the nation. Currently, 139 active 211 systems serve over 100 million people comprising over 34 percent of the population of the United States.[4] Indeed, the United Way/AIRS believes that it has already met the Commission's five-year utilization benchmark established in the *Third Report and Order*.[5]

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[3] On March 12, 2001, Verizon Wireless, Qwest International Corp., Nextel Communications, Inc., Sprint PCS, and CTIA filed Petitions for Reconsideration of the *Third Report and Order*. SBC Communications, Inc. filed a Petition for Clarification.

[4] *See* http://www.211.org/status.html for detailed information on the deployment of 211 nationwide.

[5] *See Third Report and Order* ¶ 21.

Even in the absence of Commission action, it is clear that 211 deployment has progressed rapidly. To date, 32 states, the District of Columbia, and Puerto Rico have taken executive, legislative, or regulatory action to designate a 211 developer or have directly become involved in the development of 211.[6] Another 10 states have provided informal support for 211 or participated on 211 planning task forces.[7] Efforts to facilitate 211 deployment are also being pursued in the U.S. Congress. As indicated through the passage of the *Public Health Security and Bioterrorism Preparedness and Response Act of 2002*, 211 is now considered an allowable use of funds in the coordination and planning of state and local security and response efforts.[8] Also, in September 2003, Senators Hillary Clinton (D-New York) and Elizabeth Dole (R-North Carolina), and Representatives Anna Eshoo (D-California) and Richard Burr (R-North Carolina) introduced the *Calling for 2-1-1 Act*, which proposes an annual $200 million appropriation for distribution as matching funds to states' 211 lead entities.[9] United Way/AIRS has worked to secure bipartisan co-sponsorship of this legislation by 32 senators and 150 congresspersons.

The services provided by 211 community information and referral professionals on a daily basis address critical human needs affecting life, health, shelter, and other critical well-being issues that are not addressed by either 911 emergency assistance or 311 non-emergency

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[6] These states include Alabama, Arizona, California, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, and Wisconsin.

[7] These states include Idaho, Kansas, Maine, Minnesota, Montana, Oregon, Pennsylvania, Rhode Island, South Carolina, and South Dakota.

[8] The *Public Health Security and Bioterrorism Preparedness and Response Act of 2002* included as a goal "to enhance communication to the public of information on bioterrorism and other public health emergencies including through the use of 2-1-1 call centers." *See* P.L. 107-188, 116 Stat. 594 (*available at* http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ188.107), codified at 42 U.S.C.A. §247d-3a(d)(9).

[9] *See, e.g.,* S.1630 and H.R.3111 (*available at* http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid =f:s1630is.txt.pdf).

police assistance. One recent example of the value of 211 is Southwest Florida's preparation and post-storm recovery for Hurricanes Charley, Frances, Ivan, and Jeanne. Florida's 211 network responded to hundreds of thousands of calls, directing victims to needed services such as shelters, food, medical assistance, disaster preparedness and response activities, post-disaster assistance, and recovery information. In addition, local 211 centers matched volunteers with opportunities to help in affected communities, such as assisting local media outlets with food drive efforts by soliciting assistance in loading trucks in designated areas. In the areas hardest hit, the 211 centers took as many as 500-800 calls per hour in the first few days following the storms. In the two weeks following Hurricane Charley, the 211 providers in Florida handled over 100,000 calls. In Orlando, the 211 provider was able to use its mapping tools to determine from which parts of the community elderly residents were calling.[10] To build on this progress, the Commission should act to help remove the few remaining roadblocks to national 211 deployment.

I. 211 APPLIES TO WIRELESS CARRIERS

In their comments, Verizon Wireless/Sprint and CTIA renew their claims that wireless carriers should not be required to provision 211 services.[11] The Commission should not acquiesce. When considering the assignment of numbering resources, special consideration is generally not given to wireless carriers.[12] In any case, over the course of this proceeding, United

[10] The importance of wireless access to 211 services is highlighted in such disaster situations, where landline services may be unavailable or callers lack access to their home phones (*e.g.,* when calling from shelters).

[11] *See* Comments of Verizon Wireless and Sprint PCS, CC Docket No. 92-105 at 2 (Nov. 12, 2004) ("Verizon Wireless/Sprint Comments"); Comments to Refresh the Record of CTIA – The Wireless Association™, CC Docket No. 92-105 at 3 (Nov. 12, 2004) ("CTIA Comments").

[12] *See Opposition of the United Way of America, The United Way of Connecticut, the United Way of Metropolitan Atlanta, and the Alliance of Information and Referral Systems to the Petitions for Reconsideration*, CC Docket No. 92-105 at 11 (Apr. 12, 2001) ("United Way/AIRS Opposition").

Way/AIRS has clearly established the compelling public interest objectives served by the public having access to critical 211 services from all phones, including mobile phones.[13] Recognizing the important public interest benefits of wireless 211, some states have taken special steps to facilitate wireless 211 deployment (*e.g.,* Connecticut, Iowa, Nebraska, and Texas). Indeed, the need for wireless access to 211 has compounded since the *Third Report and Order* was released, as use of wireless services proliferates and consumers increasingly transition to wireless-only service.[14]

In assigning 211 to community information and referral services, the Commission has also acknowledged the public interest benefits of such services.[15] Petitioners fail to quantify the alleged unreasonable burdens placed on them to provision 211 service or otherwise provide specific examples of problems regarding competing requests for 211 numbers since 211 was assigned that justify reconsideration of the 211 assignment or the application of that assignment to wireless carriers. Indeed, United Way/AIRS is aware of several instances where wireless carriers and 211 providers have already worked together to implement successful wireless 211 solutions. For example, in Texas, with the help of the Public Utility Commission and the Texas Health and Human Services Commission, 211 providers worked with SBC and Cingular to implement 211 from mobile phones. 211 calls from Cingular customers are routed from over 30 Cingular switches to a statewide 800 number that automatically transfers callers to the

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[13] *See id.* at 17-22 (discussing how wireless 211 would be beneficial in conjunction with domestic abuse cell phone distribution programs). Since the Commission's assignment of 211 in 2000, increased concern regarding terrorism and national security has heightened 211's role in providing and coordinating community assistance.

[14] *See Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, Ninth Report, WT Docket No. 04-111, FCC 04-216 ¶¶ 5, 213 and n. 575 (rel. Sept. 28, 2004) (noting a national wireless penetration rate of approximately 54 percent and suggesting that approximately five to six percent of all households are now wireless-only).

[15] *See Third Report and Order* ¶ 18.

appropriate 211 service provider based on NPA-NXXs. Callers seeking information about other areas of the state are transferred over the statewide Voice Over Internet Protocol ("VOIP") system to the appropriate 211 center. Also, in Indiana, Centennial Wireless provides local translation through its switch for 211 calls at no cost to the 211 provider. Centennial Wireless and the 211 provider reached an agreement regarding call routing to address differences in the wireless service area and the geographic area served by the 211 provider, and Centennial Wireless has immediately addressed all routing issues upon notice.

The United Way/AIRS generally has found that wireless carriers recognize the value of 211 service to their customers and are eager to provide their subscribers with access to 211. In many cases, wireless carriers have made the necessary network/switch modifications in very short order, often at no charge to the 211 service provider.[16] The experience gained by all involved in various state-level 211 proceedings has further facilitated the ongoing 211 wireless deployment process.

In their joint filing, Verizon Wireless and Sprint suggest that the Commission provided monopoly access to 211 and 511.[17] Although United Way/AIRS believes that Verizon Wireless/Sprint focus on 511 travel information services when they argue about the competitive commercial provision of N11 services, the impropriety of allowing 211 community information and referral services to be deployed exclusively through the marketplace on a carrier-by-carrier basis is clear. Significantly, 211 service is more akin to 911 emergency services or 711 telecommunications relay services than 511 traffic information or 411 directory assistance.

[16] For example, Cricket Communications provisioned 211 service for the entire state of Utah overnight. We also note that wireless carriers including Verizon Wireless, Cingular Wireless, Sprint PCS, Nextel, T-Mobile, Unicel, Cell One, and Centennial Wireless have provisioned 211 service for no charge in various communities.

[17] *See* Verizon Wireless/Sprint Comments at 3.

There is inherent value in ensuring that 211 services are provided by trained professionals using industry standards designed to promote the public interest, instead of private profit. The unrestrained ability to provide 211 service could jeopardize high-quality, freely available, standards-driven 211 service or otherwise deprive the public of 211 services altogether if a wireless carrier simply elected not to provide access to the service from their networks. In effect, the carriers are requesting their own monopolies over 211 services in their respective networks.

The wireless carriers overstate the "monopoly" community information and referral providers have over 211. Specifically, the Commission left a degree of flexibility regarding who may obtain the 211 number to provide community information and referral services in a given area. The *Third Report and Order* does not prohibit a government entity or commercial service provider (or anyone else, for that matter) from requesting 211 and providing information and referral services using 211.[18] Indeed, 211 services are currently being provided by non-profits, government entities, information and referral service providers, the American Red Cross, and commercial providers.[19] The *Third Report and Order* also only requires "non-compliant" (*i.e.,* non-information and referral services) use of 211 to be relinquished based on an information and referral service request for 211.[20] And, in the event that a wireless carrier wishes to provide community information and referral services in an area where 211 is already assigned, the wireless carrier is not prohibited from providing such services, albeit using a different number.

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[18] *See Third Report and Order* ¶ 21.

[19] Although the United Way/AIRS would like to emphasize the critical nature of no-cost community and information services provided by trained professionals, there are indeed instances of commercial entities providing 211 service pursuant to contracts with non-profit information and referral entities.

[20] *See Third Report and Order* ¶ 21.

II. REQUESTS FOR CLARIFICATION RELATED TO 211 CAN BE ADDRESSED WITHOUT JEOPARDIZING THE 211 ASSIGNMENT

The United Way/AIRS believes that the recent supplemental comments in this proceeding focus not on the validity or public service benefits of 211, but rather on the need for relatively minor Commission clarifications. The primary issues requiring clarification with regard to 211 are: (1) determining who gets to use the 211 code to provide community information and referral services; and (2) routing issues unique to the geographic coverage areas and mobility of callers using wireless services. The United Way/AIRS has always welcomed Commission guidance on these matters and has sought to cooperate with the industry whenever possible regarding the entities chosen to provide 211 service and the geographic routing issues associated with wireless 211 service.[21]

CTIA, SBC, and Nextel request Commission guidance on the issue of which entities should be allowed access to 211 and how carriers should resolve mutually exclusive requests.[22] The United Way/AIRS believes that it would be beneficial for the Commission to clarify that the states are authorized to determine which entity should use the 211 code in a given state or locale. Information and referral services entities, including the United Way and AIRS, have provided suggested eligibility criteria both to the Commission and at the state level in various 211 implementation proceedings.[23] Many states have already developed their own rules and

[21] *See* United Way/AIRS Opposition at 24.

[22] *See* SBC Response to the Commission's Request to Refresh the Record Regarding Reconsideration of the Designation by the Commission of 211 and 511 As Abbreviated Dialing Codes, CC Docket No. 92-105 at 1 (Nov. 12, 2004) ("SBC Comments"), Supplemental Comments of Nextel Communications, Inc., CC Docket No. 92-105 at 2 (Nov. 12, 2004) ("Nextel Comments"); and CTIA Comments at 5.

[23] *See, e.g.,* United Way/AIRS Opposition at 16. Suggested criteria include: (1) non-profit 501(c)(3) organization; (2) sufficient human and financial resources to implement 211; (3) ability to provide comprehensive human services information and referral; (4) ability to provide 211 free of charge to calling parties; (5) ability to adhere to professional information and referral standards; and (6) demonstrate collaboration among information and referral providers.

guidelines. A few state utility commissions, however, including Florida, Hawaii, Minnesota, Pennsylvania, and Virginia have been reluctant to act on this issue absent more explicit Commission direction.

CTIA and Nextel also request clarification on the routing of wireless calls to 211.[24] With regard to wireless carrier routing of 211 calls, United Way/AIRS believes that 211 providers and wireless carriers (sometimes with the assistance of state regulators) have been developing reasonable, workable, and efficient solutions for wireless 211 routing issues. Indeed, 211 providers have been very flexible regarding wireless network practices for routing 211 calls. For example, 211 providers have not requested the level of location-based accuracy required for 911 calls, have implemented 211 on a statewide basis in several instances, and have adopted cooperative agreements between 211 call centers to provide assistance or appropriately route calls from inadvertently misdirected or roaming wireless customers.[25] The "community" concerns raised by CTIA, therefore, have been minimized with regard to wireless 211 calls.[26] The United Way/AIRS, however, believes that information sharing and Commission guidance on the issue will expedite the implementation process, especially in instances where states have been reluctant to act.

III. PROCEDURAL ARGUMENTS REGARDING THE 211 ASSIGNMENT ARE NOT VALID

Verizon Wireless and Sprint reiterate their arguments that the 211 number assignment was procedurally defective.[27] As explained in earlier filings in this docket, the Commission's

[24] *See* Nextel Comments at 4, CTIA Comments at 5.

[25] *See* United Way/AIRS Opposition at 18.

[26] *See* CTIA Comments at 4.

[27] *See* Verizon Wireless/Sprint Comments at 6.

action reserving 211 for information and community referral services was a number assignment and not a rulemaking proceeding subject to the Federal Register publication requirements contained in the Administrative Procedure Act ("APA").[28] The Commission addressed the 211 number assignment in the same way as it did other N11 assignments.[29] Because the number assignment was not a rulemaking proceeding, there was no corresponding requirement for the assignment to become effective only 30 days after Federal Register publication.[30] Because it was not part of a rulemaking, there was also no need for a related Final Regulatory Flexibility Analysis.[31] The wireless carriers seek to apply unprecedented procedural obligations on numbering resource policy decisions.

The Commission acted appropriately, and within its Rules, to provide notice of the 211 assignment. Pursuant to Section 0.445(d) of the Commission's Rules, 47 C.F.R. §0.445 (d):

> Formal policy statements and interpretations designed to have general applicability and legal effect are published in the Federal Register, the FCC Record, FCC Reports, or Pike and Fischer. Commission decisions and other Commission documents not entitled formal policy statements or interpretations may contain substantive interpretations and statements regarding policy, and these are published as part of the document in the FCC Record, FCC Reports or Pike and Fischer. General statements regarding policy and interpretations furnished to individuals, in correspondence or otherwise, are not ordinarily published.

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[28] *See* United Way/AIRS Opposition at 3-8. A number assignment is "an announcement is made to the industry that a particular number will be used for certain, defined services to warn current users of that number that they will need for relinquish their use of the number when the new assignment is implemented." *Third Report and Order* ¶ 33.

[29] Numbering administration is often delegated by the Commission to other authorities not subject to the APA (*e.g.,* state utility commissions or the North American Numbering Plan Administrator ("NANPA")). In fact, pursuant to the Commission's Rules, NANPA can make N11 assignments. *See* 47 C.F.R. § 52.13(d)(6). Telecommunications carriers, including wireless carriers, typically make network changes incidental to the introduction of new numbering resources (*e.g.,* new area codes or toll-free codes) authorized under delegated authority absent Federal Register publication.

[30] The 30-day rule under 5 U.S.C.A. § 553 applies to notice and comment rulemaking proceedings.

[31] *See* United Way/AIRS Opposition at 6. Regulatory flexibility analyses are only triggered by notice and comment rulemaking proceedings. *See* 5 U.S.C.A. § 604.

Indeed, the Commission provided more than adequate notice of the 211 assignment. Specifically, the Commission issued a Public Notice seeking comment on the petition for the 211 assignment.[32] The Public Notice was placed in the Commission's Daily Digest and the FCC Record.[33] The wireless carriers chose not to file comments during the pleading cycle.[34] After assigning 211 to community information and referral services, the Commission issued a News Release regarding the number assignment,[35] which was placed on the Commission's Internet site in the "Headlines" section on July 21, 2000. The *Third Report and Order* was also placed in the Daily Digest[36] and the FCC Record.[37] Verizon Wireless and Sprint cannot contend that they did not have adequate notice of the 211 assignment and the related obligations imposed on all telecommunications carriers related to the assignment of a new numbering resource.

The Commission, in its discretion, included the 211 assignment with its disposition of items pending in an N11 rulemaking proceeding.[38] Unfortunately, the wireless carriers are exploiting the fact that the Commission published the *Third Report and Order* in the Federal

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[32] *See Request by the Alliance of Information and Referral Systems, United Way of America, United Way 211 (Atlanta, GA), United Way of Connecticut, Florida Alliance of Information and Referral Services, Inc., and Texas I&R Network for Assignment of 211 Dialing Code: Pleading Cycle Established*, Public Notice, NSD-L-98-80, DA 98-1571 (rel. Aug. 6, 1998).

[33] *See* Aug. 6, 1998 Daily Digest *available at* http://www.fcc.gov/Daily_Releases/Daily_Digest/1998/d980806.html. *See* 13 FCC Rcd 21644 (1998).

[34] CTIA and Sprint PCS, however, responded to the 511 assignment Public Notice. *See Third Report and Order* Appendix A.

[35] *Federal Communications Commission Assigns Easy To Use Phone Numbers For Community & Referral Service Information And Travel & Transportation-Related Information*, News Release (July 21, 2000) *available at* http://www.fcc.gov/Bureaus/Common_Carrier/News_Releases/2000/nrcc0036.html.

[36] *See* July 24, 2000 Daily Digest *available at* http://www.fcc.gov/Daily_Releases/Daily_Digest/2000/dd000724.html.

[37] *See* 15 FCC Rcd 16753 (2000).

[38] *See Third Report and Order* ¶2.

Register more than six months after 211 was assigned to make up for their failure to participate in the 211 assignment process or file reconsideration petitions in a timely manner.[39]

CONCLUSION

United Way/AIRS continues to object to arguments regarding the perceived procedural defects related to the 211 assignment. United Way/AIRS, however, welcomes Commission guidance regarding the operational issues surrounding state utility commission authority to oversee 211 implementation issues at the state level and geographic routing issues related to 211 calls from wireless customers.

Respectfully submitted,

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[39] Pursuant to Section 1.4(b)(2) of the Commission's rules, 47 C.F.R. § 1.4(b)(2), petitions for reconsideration of the 211 assignment were due on August 30, 2000.