

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)	
)	
Petition of the New York State)	CC Docket No. 99-200
Department of Public Service)	DA 05-3064
For Mandatory Number Pooling)	

**COMMENTS OF
THE NEW YORK STATE TELECOMMUNICATIONS ASSOCIATION, INC.**

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December 19, 2005

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On August 26, 2005, the New York State Department of Public Service (“NYSDPS”) submitted a Petition to the Federal Communications Commission (“FCC”) requesting that the FCC direct NeuStar Number Pooling Services (“NeuStar”) to mark all rate centers in the state mandatory for 1,000 block pooling.¹ The New York State Telecommunications Association, Inc. (“NYSTA”) hereby submits Comments regarding the Petition.

NYSTA is a non-profit association incorporated in 1921 whose membership includes all of the incumbent local exchange carriers operating in New York State as well as several competitive local exchange carriers, interexchange carriers, and Internet service providers. The Independent local exchange carrier members of NYSTA

¹ *Petition of the New York State Department of Public Service for Mandatory Number Pooling*, submitted August 26, 2005. (“NYSDPS Petition”)

(“ILECs”) were all directed to become local number portability (“LNP”)-capable for wireless providers in April 2004², but these rural carriers have never been required to become 1,000 block pooling capable.³ Accordingly, these NYSTA member companies are directly affected by the mandatory pooling request by the NYSDPS.

In its Petition, the NYSDPS made the following arguments in support of its mandatory pooling request:

- (1) Competition is expected statewide due to the presence of intermodal providers (digital voice services offered by cable television companies, VoIP providers, and wireless carriers), even in rural areas.⁴
- (2) Since competition is expected in all rate centers, companies will have others with which to pool numbers.⁵
- (3) Any delays in mandating pooling will negatively impact numbering resources.⁶
- (4) All carriers in the state are LNP-capable, which provides most of the functionality for pooling.⁷
- (5) Any further financial investment in pooling would be minimal.⁸
- (6) The state’s ILECs have already paid for LNP.⁹

² *Order Denying Petition*, Petition of Multiple Communications Companies for a Suspension of Wireline-to-Wireline Number Portability Obligations, Case 03-C-1508 (Issued and Effective April 19, 2004).

³ In fact, rural ILECs were specifically exempted from pooling until they have received an LNP request. *See: 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*, In the Matter of Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, and Telephone Number Portability, CC Docket Nos. 99-200, 96-98, and 95-116 (Released June 18, 2003).

⁴ *NYSDPS Petition*, at p. ii.

⁵ *Id.*, at p. iii.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

- (7) Following the grant of numbering authority from the FCC, the PSC ordered number pooling in March 2000, so all companies have had notice of the pooling requirement for over five years.¹⁰

While NYSTA generally agrees with the NYSDPS that competition from intermodal providers is expected everywhere, including the rural exchanges of the state's ILECs, we assert that competition is in fact currently present in some manner in most all rate centers. Given this fact, NYSTA also agrees that waiting until competition actually appears in the rural areas where it does not currently exist in order to begin a mandatory pooling proceeding will have a negative impact on numbering resources.

On the other hand, while NYSTA acknowledges that all incumbent providers in the state were directed to become LNP-capable to provide number portability with wireless carriers this fact alone does not mean that all carriers are thus pooling capable. We do not believe that the NYSDPS is correct when they state that there is minimal additional costs for carriers to implement 1,000 block pooling.

Depending on the type of switch an ILEC owns, when it met the LNP mandate, it did not necessarily activate 1,000 block pooling. For some switches, the software for both LNP and pooling are contained in the same upgrade, but a separate license to implement each is necessary. In other words, just because a switch has become pooling "capable," does not necessarily mean it is pooling "ready." The cost to pay the licensing fee and become pooling ready is in the range of about \$3,000 to \$5,000 per switch.

¹⁰ *Id.*, at p. iv.

In situations where the LNP software upgrade for a brand of switch did not include pooling, software must be purchased to perform pooling in addition to a license fee. The cost in this situation ranges between \$40,000 and \$50,000 per switch, depending on the manufacturer.

NYSTA agrees that all incumbent providers have been on notice regarding pooling and have taken steps to best ensure uncontaminated 1,000 blocks are available even where pooling has not yet been required.¹¹ However, there has never been a requirement for ILECs to become pooling ready either at or before the time they became LNP ready in the absence of an LNP request.¹²

Further, NYSTA acknowledges that several of the state's ILECs are not pooling ready today. Some need to invest in the proper software upgrade to permit pooling and pay the license fee, while others only need to render the license fee. In both cases, investments will be required by these ILECs in order to provide pooling.¹³

¹¹ *Order Instituting State-Wide Number Pooling and Number Assignment and Reclamation Procedures*, Proceeding on Motion of the Commission Pursuant to Section 97(2) of the Public Service Law to Institute an Omnibus Proceeding to Investigate the Efficiency of Usage of Telephone Numbering Resources and to Evaluate the Options for Making Additional Central Office Codes and/or Area Codes Available in Areas of New York State When and Where Needed, Case 98-C-0689 (Issued and Effective March 17, 2000).

¹² *See*: footnote 3, above.

¹³ NYSTA recognizes that rate-of-return carriers have been authorized, at their option, to recover carrier-specific pooling costs through interstate access charges, but this would not amount to a full recovery. (*See: Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200*, In the Matter of Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, and Telephone Number Portability, CC Docket Nos. 99-200, 96-98, and 95-116, Released December 28, 2001).

Moreover, the ILECs will need to reprogram their billing and operating systems (including record keeping, outside plant, and telephone number assignments) to reflect that some codes have been assigned to another carrier. These costs will vary by company, but should not be considered “minimal.”

Accordingly, while NYSTA supports the number resource conservation mechanisms associated with 1,000 block pooling due to the presence of competition throughout New York, for several small, rural carriers, the cost of compliance could be significant. Therefore, NYSTA proposes that individual rural carriers be given the opportunity to request a waiver of the mandatory pooling requirement from the New York State Public Service Commission where a cost/benefit analysis does not justify the investment.

Respectfully submitted,

**NEW YORK STATE TELECOMMUNICATIONS
ASSOCIATION, INC.**

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