

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

In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Petition of the West Virginia Public Service Commission for Expedited Decision for Authority to Implement Additional Number Conservation Measures	)	
	)	
Petition of the Nebraska Public Service Commission for Expedited Decision for Authority to Implement Additional Number Conservation Measures	)	
	)	
Petition of the Oklahoma Corporation Commission for Expedited Decision for Authority to Implement Additional Number Conservation Measures	)	
	)	
Petition of the Michigan Public Service Commission for Additional Delegated Authority Over Numbering Resource Conservation Measures	)	
	)	
Petition of the Missouri Public Service Commission for Additional Delegated Authority to Implement Number Conservation Measures	)	

**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION  
INITIAL COMMENTS**

The National Telecommunications Cooperative Association (NTCA)<sup>1</sup> hereby responds to the Federal Communications Commission's (FCC or Commission) Order and Fifth Further

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<sup>1</sup> NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents 560 rural rate-of-return regulated incumbent local exchange carriers (ILECs). All of its members are full service local exchange carriers, and many members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). NTCA members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

Notice of Proposed Rulemaking (5<sup>th</sup> NPRM)<sup>2</sup> seeking comment on whether to extend thousands block number pooling (number pooling) outside the top 100 Metropolitan Statistical Areas (MSAs). The Commission should consider number pooling on a case-by-case basis and should not jeopardize rural carriers' local number portability (LNP) exemption by mandating number pooling. The Commission should verify that location routing number (LRN) architecture permits number pooling among rural carriers and should require state public service commissions to file state-specific petitions that contain state-specific data on number pooling costs.

## I. INTRODUCTION

On its February 24, 2006, 5<sup>th</sup> NPRM, the Commission granted five pending petitions filed by the state public service commission for West Virginia, Nebraska, Oklahoma, Michigan and Missouri for delegated authority to extend mandatory number pooling outside the top 100 MSAs.<sup>3</sup> The 5<sup>th</sup> NPRM included a notice of public rulemaking that sought comment on extending the number pooling authority to all MSAs outside the top 100 MSAs.<sup>4</sup> The Commission seeks to determine whether to extend the delegated authority to implement mandatory thousands-block number pooling:

- a. To all states to be implemented at their discretion; or
- b. To states individually on a case-by-case basis, based on certain criteria; or
- c. To all rate centers on a phased implementation schedule.<sup>5</sup>

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<sup>2</sup> *Numbering Resource Optimization*, Order and Fifth Further Notice of Proposed Rulemaking, CC Docket No. 99-200 (rel. Feb. 24, 2006) (5<sup>th</sup> NPRM).

<sup>3</sup> Three additional state petitions for number pooling filed by the state public service commissions for Washington, Ohio and New York are still pending before the Commission. 5<sup>th</sup> NPRM, ¶ 7, n. 20.

<sup>4</sup> 5<sup>th</sup> NPRM, ¶ 16.

<sup>5</sup> *Id.* at ¶¶ 16, 17.

The Commission recognized the rural carriers' LNP exemption<sup>6</sup> and asserted that "rural carriers who are not LNP capable will not be required to implement full LNP capability solely as a result of the delegation of authority set forth herein."<sup>7</sup> The Commission also required state commissions, in exercising delegated number pooling authority, to implement this delegation consistent with the exemption for the above rural, Tier III CMRS and sole service providers.<sup>8</sup> The Commission further asserted that LRN architecture, not full local number portability (LNP) capability, is necessary for number pooling and relied on findings contained in its 2003 *Fourth Report and Order*.<sup>9</sup> The Commission did not, however, elaborate on whether this assumption is still accurate, valid or applicable uniformly to all carriers regardless of size.

## II. ARGUMENT

The Commission should require state public service commissions to file state-specific petitions (rather than use a blanket approach) and should not mandate number pooling where it will violate rural carriers' exemptions from LNP-capability. The Commission should review its assumptions regarding the relationship between LRN architecture and number pooling. Finally, the Commission should require state petitions to contain state-specific data that examine the rural carriers' implementation costs, especially where the rural carriers are not LNP-capable.

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<sup>6</sup> *Id.* at ¶ 5.

<sup>7</sup> *Id.* at ¶ 11.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Id.* at ¶ 4, citing Numbering Resource Optimization, Fourth Report and Order in CC Docket No. 99-200 and CC Docket No. 95-116, 18 FCC Rcd 12472, 12474, ¶ 5 (rel. June 18, 2003) ("Fourth Report and Order"). In the *Fourth Report and Order*, the Commission determined that: "LRN architecture breaks the association between the central office code, or NXX, and a particular service provider. A unique 10-digit number, the LRN, serves as a network address and is assigned to each central office to identify each switch or point of interconnection in the network. To facilitate LNP and pooling, databases and appropriate records are established and maintained to make the proper network and carrier association for call routing purposes." *Id.* at ¶ 11, n. 30.

**A. The Commission Should Grant Number Pooling Outside the Top 100 MSAs On A Case-By-Case Basis.**

The Commission is aware that extending number pooling beyond the top 100 MSAs will have financial impacts on rural carriers, and appears to assume that the benefits of pooling will outweigh the costs under all circumstances.<sup>10</sup> This assumption is not based on specific record evidence, and the best sources for that evidence are the state public service commissions who seek number pooling authority. Specifically, the Commission should verify whether non-LNP capable rural carriers can implement number pooling without additional costs, if they have implemented an LRN architecture throughout their switches within their networks. Therefore, the Commission should require state public service commissions to provide hard data and other record evidence in state-specific petitions for number pooling authority.

**B. The FCC Should Require State Commissions To Preserve The Rural LNP Exemptions If Commission Grants Mandates Number Pooling.**

Some rural telephone companies are exempt from the FCC's number pooling requirements because they have not received a request to provide LNP.<sup>11</sup> Also exempt from number pooling are rural carriers that are the only service provider receiving numbering resources in a given rate center.<sup>12</sup> Rural carriers may also be exempt because they are under a state suspension or modification of the number pooling requirements as a result of the D.C.

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<sup>10</sup> “If we adopt some form of additional number pooling, beyond the top 100 MSAs, more carriers may be required to comply with the filing requirements for number pooling. Expanding number pooling will, however, conserve numbering resources and will prevent or delay the adoption of other, possibly more burdensome, measures.” 5<sup>th</sup> NPRM, Regulatory Flexibility Analysis, ¶ 14.

<sup>11</sup> *In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; and Telephone Number Portability*, Fourth Report and Order in CC Docket No. 99-200 and 95-116, and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 99-200, FCC 03-126, (rel. June 18, 2003) at ¶ 18.

<sup>12</sup> 5<sup>th</sup> NPRM, ¶ 19.

Circuit's Intermodal LNP Remand Order.<sup>13</sup> The Commission has recognized the validity of these exemptions in its 5<sup>th</sup> NPRM<sup>14</sup> and should continue to remind state public service commissions to respect the exemptions due to the high cost to rural carriers of upgrading their systems to implement number pooling where competition does not exist.<sup>15</sup>

**C. The Commission Should Revisit Its Assumption That LRN Permits Number Pooling.**

A key assumption underlying the Commission's grant of number pooling to five states for rate centers outside the top 100 MSAs is that carriers who have LRN architecture are capable of implementing number pooling without incurring additional costs.<sup>16</sup> The Commission should revisit this dated assumption and, before declaring that all rural carriers in any MSA can be subject to number pooling, determine that the assumption is still accurate and valid, and that it applies uniformly to all carriers regardless of size. The Commission's assumption, drawn from its 2003 *Fourth Report and Order*, is based on comments filed by large wireless carriers, not small rural carriers.<sup>17</sup> The Commission should not rely on these statements filed more than three years ago by large wireless carriers who, in many circumstances, are now direct competitors of rural carriers and have a vested interest in increasing rural carriers' operational costs. Rather, state public service commissions should gather updated information in light of changed

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<sup>13</sup> *U.S. Telecom Ass'n v. FCC*, 400 F.3d 29 (D.C. Cir. 2005) (Court of Appeals stayed enforcement of the FCC's Intermodal LNP Order for failure to consider impacts on two percent carriers and failure to initiate rulemaking proceeding) (Intermodal LNP Remand Order).

<sup>14</sup> 5<sup>th</sup> NPRM, ¶ 11.

<sup>15</sup> Upgrading a switch to permit number pooling could be extremely expensive, especially for rural ILECs who have small subscriber customer bases. As NTCA has previously pointed out in this docket, the fixed cost to upgrade a rural ILEC's switch to be LNP-capable is between \$100,000 and \$200,000. *Telephone Number Portability*, CC Docket No. 99-200, NTCA reply comments (filed Sept. 4, 2003), at 3.

<sup>16</sup> 5<sup>th</sup> NPRM, ¶ 11.

<sup>17</sup> "We have since found, and the industry has confirmed, that full LNP capability is not necessary for participation in pooling," citing comments filed by Verizon Wireless, AT&T Wireless, Cingular Wireless, Sprint, Voicestream and US Cellular. *Fourth Report and Order*, ¶ 11, n. 29.

circumstances and are best situated to gather that data as part of their petitions for number pooling authority.

The Commission should require state public service commissions who seek number pooling authority to examine whether the affected rural carriers have LRN architecture and whether the rural carriers will incur significant upgrade expenses to implement number pooling. If LRN architecture is not sufficient for pooling, and if non-LNP-capable rural carriers must upgrade their systems for number pooling, then the Commission should deny a request for number pooling. State commissions, understandably, are concerned about costs to consumers due to stranded numbers but must also recognize that mandatory number pooling may increase the costs to rural ILECs. Rural ILECS will be forced to pass those costs to customers and, consequently, will have less capital to invest in their infrastructure.

**D. The FCC And State Public Service Commissions Should Examine Number Pooling Financial Impacts On Rural Carriers.**

The Commission must examine the economic impact that number pooling creates for small rural carriers as part of its responsibilities under the Regulatory Flexibility Act (RFA).<sup>18</sup> The RFA<sup>19</sup> mandates that the Commission examine the possible significant economic impact on small entities by the policies and rules proposed in the 5<sup>th</sup> NPRM, and without state-specific data, the Commission cannot reasonably conclude that number pooling should be implemented in all rural areas, nor can the Commission reasonably extend number pooling outside the top 100 MSAs.

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<sup>18</sup> *C.f. U.S. Telecom Ass'n v. FCC*, 400 F.3d 29 (D.C. Cir. 2005) (Court of Appeals stayed enforcement of the FCC's Intermodal LNP Order for failure to consider impacts on two percent carriers and failure to initiate rulemaking proceeding).

<sup>19</sup> 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (“SBREFA”), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

The Commission should review state-by-state petitions for numbering authority that included serious consideration of financial impacts on rural ILECs, and the Commission should not grant any petition that fails to examine rural impacts. These petitions should reflect rural impact criteria, including:

- a) The number of non-LNP-capable wireline carriers in the target NPA, and the number of those carriers that are rural ILECs;
- b) Data (not merely summary conclusions) demonstrating that the state commission has weighed the costs to non-LNP capable rural carriers of implementing number pooling;
- c) The number and percent of rate centers in the target NPA that do not have mandatory number pooling are excluded from such pooling; and
- d) Explanations, where appropriate, of why mandatory number pooling should be extended to NPAs that are not in jeopardy.

Without this critical financial impact data the Commission will not have developed a record sufficient to support any grant of number pooling authority. The Commission should also clarify that where a state commission seeks number pooling authority for rate centers outside the top 100 MSAs that are LNP capable, that any delegated authority the Commission may give does not affect rate centers, or the rural ILECs who service those rate centers, that are not LNP-capable. Furthermore, the Commission should not expand that request to include rural ILECS or rate centers that are non-LNP capable, or whose state commissions have not filed NPA-specific petitions.

### III. CONCLUSION

For these reasons, the Commission should require state public service commissions to file state-specific petitions (rather than use a blanket approach) and should not mandate number pooling where it will violate rural carriers' exemptions from LNP-capability. The Commission should review its assumptions regarding the relationship between LRN architecture and number pooling. Finally, the Commission should require state petitions to contain state-specific data that examine the rural carriers' implementation costs, especially where the rural carriers are not LNP-capable.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS  
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May 15, 2006

CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Initial Comments of the National Telecommunications Cooperative Association in CC Docket No. 99-200, FCC 06-14, was served on this 15th day of May 2006 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons.

/s/ Gail Malloy

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