

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

In the Matter of : **CC Docket No. 99-200**
Number Resource Optimization : **FCC 06-14**

**COMMENTS OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS**

On March 15, 2006, the Federal Communications Commission (FCC), in response to a comments filed by NARUC and many of its members, published in the Federal Register a Fifth Further Notice of Proposed Rulemaking (FNPRM)¹ in the above-captioned proceeding inviting comments on a proposal to delegate authority to all States to implement mandatory thousands-block number pooling consistent with the parameters established in the companion order.

NARUC genuinely appreciates the FCC's recognition of "the invaluable role" State commissions in number administration and optimization.[cite] In the a companion order to the FRNPRM, the FCC granted several State commission requests for authority to implement mandatory thousands-block number pooling in specific NPAs. In each case where relief was granted, the remaining life in the NPAs at issue was within three years of exhaust.

NARUC also commends the FCC both for granting those delegations and proposing the less burdensome generic delegation suggested in the FNPRM. Specifically, the FNPRM seeks comment on whether the FCC should extend mandatory pooling by giving the States delegated authority to implement mandatory thousands-block number pooling at their discretion.

¹ "Fifth Further Notice of Proposed Rulemaking", In the Matter of Numbering Resource Optimization, 71 Federal Register 13323 (March 15, 2006).

Alternatively, the FNRMN suggests the FCC could continue to review requests from the States for authority to extend mandatory thousands-block number pooling to new NPAs on a case-by-case basis.

NARUC supports the FCC's proposal for a generic delegation order allowing all States to implement mandatory thousands-block number pooling at their discretion, subject to current numbering rules and number pooling guidelines.

Delegated authority will allow States to more efficiently assign existing numbering resources, minimize costs to subscribers, and avoid premature area code (NPA) exhaust. It will also conserve critical State and FCC administrative resources associated with the burdensome case-by-case approach the FCC has historically followed.

In support of this position, NARUC states as follows:

NARUC'S INTEREST

NARUC is a nonprofit organization founded in 1889. Congress and the courts have consistently recognized NARUC as a proper entity to represent the generic interests of the State public utility commissions.

In the Federal Telecommunications Act,² Congress references NARUC as "the national organization of the State commissions" responsible for economic and safety regulation of the intrastate operation of carriers and utilities.³

² *Communications Act of 1934, as amended by the Telecommunications Act of 1996*, 47 U.S.C. §151 et seq., Pub.L.No. 101-104, 110 Stat. 56 (1996) (West Supp. 1998) ("Act" or "1996 Act").

³ See 47 U.S.C. § 410(c) (1971) (NARUC nominates members to FCC Joint Federal-State Boards which consider universal service, separations, and related concerns and provide formal recommendations that the FCC must act upon); *Cf.* 47 U.S.C. § 254 (1996) (describing functions of the Joint Federal-State Board on Universal Service). *Cf.* *NARUC, et al. v. ICC*, 41 F.3d 721 (D.C. Cir 1994) (where the Court explains "...Carriers, to get the cards, applied to...(NARUC), an interstate umbrella organization that, as envisioned by Congress, played a role in drafting the regulations that the ICC issued to create the "bingo card" system.)

DISCUSSION

At the NARUC's July 2004 summer meetings, NARUC adopted a Telecommunications Policy Document. Among the principles specified in that policy document are the following:

11.1. State Authority: States and NANPA need enforcement authority, and States need the ability to participate in policy decisions relating to the implementation of conservation measures.

11.2. Industry Obligations: Industry should be accountable for use of public numbering resources through specific rules and reporting requirements. Carrier choice of conservation measures should not be allowed.

11.3. Unnecessary Splits: Unnecessary area code splits should be avoided, in part through adoption of enforceable number conservation measures.

Based on these principles, and earlier resolutions, NARUC has consistently supported individual State commission requests for delegated authority to order mandatory thousands-block number pooling and asked the FCC to extend generic authority to implement conservation measures to all States.

Without pooling in the more rural areas of a State, many numbers are stranded in incumbent local exchange company (ILEC) rate centers with few access lines and become unavailable for assignment to other providers. If these stranded numbers are instead donated to a pool, they could be assigned by commercial mobile radio service (CMRS) providers, competitive local exchange companies (CLECs), as well as other service providers using new technologies. It cannot be contested that allowing States to mandate pooling in local number portability (LNP)-capable rate centers will delay the need for area code relief by utilizing the numbering resources more efficiently.

Statistics provided by the North American Numbering Plan Administrator (NANPA) and the National Pooling Administrator during the FCC's November 4, 2004 Numbering Symposium, clearly demonstrate that optimization efforts, including LNP and number pooling, significantly and successfully delay both NPA and NANP (North American Numbering Plan) exhaust. Where technically feasible, the demand for full central office codes of 10,000 numbers (NXX) has now shifted to a demand for numbers in blocks of a thousand (NXX-X). This helped eliminate stranded numbers that would likely be unavailable for assignment if full NXX codes were issued. As a result of the implementation of number pooling, as of 2004 the number of NXXs opened to replenish pools nationally was 2,890, while the number of NXX prefixes saved as a result of thousand-block number pooling was already at 12,617. Indeed, the use of number portability and pooling allowed the NANPA at that time to extend the forecasted national exhaust date from 2012 to 2035.⁴

Comments filed in this docket to support the Oklahoma delegation request granted in the companion order and a separate Ohio request point out that the demand for numbering resources is increasing in the rural areas as local competition begins to move into rate centers outside of the top 100 MSAs. They also point out that it is difficult to get carriers to participate in voluntary number pooling in LNP-capable rate centers outside the top 100 MSAs.⁵

4 Statistics reported by NeuStar during the FCC webcast of its Numbering Symposium on November 4, 2004.

5 Carriers are reluctant to participate in voluntary number pooling in LNP-capable rate centers outside the top 100 MSAs. In Ohio's "740" NPA, discussed, *infra*, only 52 of the 187 rate centers have mandatory pooling and 107 rate centers have optional pooling. The remaining 28 rate centers have no pooling capability, although at least 17 of these rate centers are LNP capable. This incomplete deployment of LNP exists despite the fact that the "740" NPA is almost entirely served by large ILECs such as SBC Ohio and Verizon North and has only one small LEC, serving one rate center. Obviously some carriers' decisions not to participate in optional pooling has resulted in the 41 requests for full NXX codes discussed, *infra*.

In Ohio's largest and most rural NPA ("740"), which encompasses almost half of Ohio's 88 counties, 155 "thousands" blocks were assigned from the numbering pools in 2004 (through the end of November), in those portions of the NPA where either optional or mandatory pooling has been implemented. Without number pooling, instead of the 155,000 numbers allocated in 2004, 1,550,000 numbers would have been assigned. During the same period in the "740" NPA, *41 full central office codes were assigned*. If the Ohio Commission were authorized to mandate number pooling in areas outside the top 100 MSAs, it is reasonable to assume that similar benefits would be experienced *throughout the NPA*, including in those areas in which the 41 NXX codes were assigned. Optional pooling is certainly more beneficial than no pooling. However, where pooling is optional, some carriers may not be prepared to donate to the number pools in a timely manner and may not take their forecasting obligations seriously. Moreover, providers in optional areas may not have conducted the research necessary to immediately donate clean or slightly contaminated blocks to the pool when requested by the Pooling Administrator. This situation causes a delay in providing numbering resources to a requesting carrier and may force that carrier to have to request a full central office code, thus, eliminating the benefits of pooling and the efficient use of numbering resources. The ability to impose mandatory pooling will require service providers to assess their needs in a timely manner. As a result, blocks of numbers would be donated efficiently and would be available to be assigned when needed. The additional authority will allow States to help the FCC ensure compliance with the FCC pooling mandates and perform audits where appropriate.

As the Florida Public Service Commission's April 27, 2006 comments point out, the significant benefits of proper and timely implementation of pooling obligations cannot be questioned. State number pooling trials and subsequent national number pooling has saved over 13.5 million numbers in Florida, and extended the lives of Florida's existing area codes from two to eleven years, saving consumers the expense and inconvenience of changing area codes. Area code relief for the 305 area code in the Florida Keys and the 689 area code overlay over central Florida has been postponed due to successful number conservation efforts implemented by the FPSC. Id. at 3

A number of other States have also filed comments already to respond to this further notice. Kansas Staff notes that "[b]ecause the Commission has already recognized the beneficial impact of thousands block number pooling³, and because the processes and methodologies used to implement and administer pooling are functioning well, the[re] ...[is] . . . no reason to further delay the broader deployment of pooling." The Kansas comments specifically recommend that the FCC ". . . expand the requirement for pooling to all rate centers with authority delegated to State commissions to grant waivers as special and limited circumstances may warrant."⁶

⁶ See, *Comments of the Staff of the State Corporation Commission of the State of Kansas*, filed May 9, 2006 in the above caption proceeding, at 2-3. Where Kansas goes on to point out that: "With pooling, the life expectancy of Kansas' four area codes will be extended and the costly disruption area code relief brings to consumers and businesses will be delayed. This is a particularly attractive benefit to Kansas in that the KCC Staff believes its next area code relief efforts will be much more difficult than the two prior efforts which split existing area codes along somewhat natural boundaries. In 1997, the 913 area code was split along the Topeka and Kansas City LATA boundary, adding the 785 area code. In 2001, the 316 area code was split along the Wichita Metropolitan Calling Area, adding the 620 code. The next relief splits will be along as yet undetermined boundaries which will most likely have little, if any, public recognition." Other early-filed State comments take similar positions. See, e.g., *Comments of the Nebraska Public Service Commission*, also filed May 9, 2006, which notes at page 2: "The NPSC supports the FCC's proposal to extend mandatory pooling by giving the States discretion to implement pooling. The NPSC believes that a process which requires the Commission to review each request from the States to extend mandatory thousands-block numbering pooling to NPAs on a case-by-case basis is too time consuming and inefficient."

CONCLUSION

To optimize the use of nation's limited numbering resources; the FCC should fully utilize all of the tools available. By delegating this authority generically, policymakers will be in a much better position to address numbering demands from new technologies, services, and players. NARUC urges the FCC to extend delegated pooling authority to all States.

Delegated authority will allow States to more efficiently assign existing numbering resources, minimize costs to subscribers, and avoid premature area code (NPA) exhaust. It will also conserve critical State and FCC administrative resources associated with the burdensome case-by-case approach the FCC has historically followed.

Respectfully submitted,

*National Association of Regulatory
Utility Commissioners*

James Bradford Ramsay
GENERAL COUNSEL

Grace Soderberg
ASSISTANT GENERAL COUNSEL

1101 Vermont Ave., NW, Suite 200
Washington, DC 20005
Phone: (202) 898-2200

Submitted: May 15, 2006

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Associations' Comments was served this 15th day of May 2006, by electronic filing and e-mail to the persons listed below.

By: /s/ James B. Ramsay

The following parties were served:

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC. 20554*

Janice Myles
Federal Communications Commission
Wireline Competition Bureau
Competition Policy Division
445 12th Street, SW
Washington, DC 20554
Janice.Myles@fcc.gov

Best Copy and Printing, Inc.
Room CY-B402
445 12th Street, SW
Washington, DC 20554
fcc@bcpiweb.com

*Filed via ECFS