

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Numbering Resource Optimization)	
)	
Petition of the West Virginia Public Service Commission for Expedited Decision for Authority to Implement Additional Number Conservation Measures)	CC Docket No. 99-200
)	
)	
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
REPLY COMMENTS**

The National Telecommunications Cooperative Association (NTCA)¹ submits these reply comments² in response to the initial comments filed on May 15, 2006, as part of the Federal

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 560 rural rate-of-return regulated telecommunications providers. All of NTCA's members are full service incumbent local exchange carriers (ILECs) and many of its 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's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

Communications Commission's (Commission or FCC) Public Notice seeking comment on its Order and Fifth Further Notice of Proposed Rulemaking (Order or 5th NPRM) on whether it should delegate number pooling authority to state public service commissions for numbering plan areas (NPAs) outside the top 100 metropolitan statistical areas (MSAs).³ The Commission should retain its current case-by-case consideration of state petitions for number pooling outside the top 100 MSAs. The Commission should use the existing NPA jeopardy status and one-year lifespan criteria in its decision-making process, and the Commission should include local number portability (LNP)-capability restrictions discussed herein as additional criteria for approval. Lastly, the Commission should also reaffirm the current rural LNP exemption in any number pooling order.

I. ARGUMENT

A. Demand For Numbers Is Increasing.

NTCA agrees with other commenters that paging, wireless, cable and VoIP providers are causing increased demand on rural number resources⁴ and that number pooling can be an effective number conservation method, saving nearly 200 million telephone numbers from being stranded and unused.⁵ The Commission's most recent telephone number utilization report, based on data as of June 30, 2005, shows that number utilization increased over the past six months.⁶

Given the advent of new communication technologies, an increase in number usage is not

² NTCA silence on any positions raised by parties in this proceeding connotes neither agreement nor disagreement with their positions or proposals. Unless specifically stated below, NTCA reasserts its positions described in its May 15, 2006 initial comments filed in this docket.

³ *Numbering Resource Optimization*, Order and Fifth Further Notice of Proposed Rulemaking, CC Docket No. 99-200 (rel. Feb. 24, 2006) (Order or 5th NPRM).

⁴ Sprint Nextel Comment, p. 5; Missouri Public Service Commission Comment, p. 4; Public Utility Commission of Texas Comment, p. 3, n. 5; NTCA ex parte, CC Docket No. 99-200 (Jan. 25, 2006), p. 4.

⁵ Missouri Public Service Commission Comment, p. 1; *Numbering Resource Utilization in the United States as of June 30, 2005* (rel. May 2, 2006) (Numbering Resource Utilization Report), p. 2. A copy of this report is available on the FCC's web site at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-265170A1.pdf.

⁶ *Numbering Resource Utilization Report*, p. 2.

surprising and is, in fact, expected. This expanded demand understandably pressures state commissions and the FCC for number relief; the question is -- how should it be done?

Several comments address the need for numbering resources that arise outside of the top 100 MSAs, many of which are located in rural areas.⁷ In these communities, number pooling is not mandatory but, rather, is optional or excluded.⁸ Carriers have returned over 10 million telephone numbers in 2005 alone through pooling or other means.⁹ BellSouth justifiably questions the alleged need for nationwide pooling, instead of targeted, state-specific or NPA-specific pooling.¹⁰ Still, state public service commissions seek broad, blanket delegation of number pooling authority unfettered by Commission oversight or control, and NTCA has expressed its concerns over unchecked implementation of number pooling outside the top 100 MSAs.¹¹

B. Individual State Petitions Offer The Best Opportunity To Review The Need And Timing For Number Pooling.

The Commission, in response to increased demand for numbers in rural NPAs, should retain its current case-by-case consideration of state petitions.¹² The case-by-case approach, rather than the blanket number pooling authority approach advocated by some commenters¹³ or

⁷ Iowa Utilities Board Comment, pp. 2-7; New Mexico Public Regulatory Commission Comment, p. 4; Public Utility Commission of Texas Comment, p. 2.

⁸ Iowa Utilities Board Comment, pp. 5-7.

⁹ Numbering Resource Utilization Report, p. 2.

¹⁰ BellSouth Comment, p. 10; Kentucky Public Service Commission Comment (“number conservation measures adopted by the KPSC along with optional thousands-block number pooling implemented by the FCC have contributed greatly as well.”), p. 3.

¹¹ NTCA *ex parte*, CC Docket No. 99-200 (Jan. 25, 2006), pp. 1-2 (“The National Telecommunications Cooperative Association (NTCA) submits this written *ex parte* presentation to alert the Commission of the costly consequences to rural ILECs that will result if the Commission imposes mandatory thousands-block number pooling (number pooling) on all rural carriers outside the top 100 metropolitan statistical areas (MSAs), as proposed by eight state public service commissions.”).

¹² *In accord*, Rural Iowa Independent Telephone Association Comment, p. 2; BellSouth Comment, p. 1.

¹³ California Public Utility Commission Comment, p. 3; Idaho Public Utility Commission Comment, p. 2; Indiana Utility Regulatory Commission Comment, p. 2; Iowa Utilities Board Comment, p. 2; Kentucky Public Service Commission Comment, p. 2; Nebraska Public Service Commission Comment, p. 2; New Mexico Public Regulatory

use of a phased-in implementation schedule that others support,¹⁴ is optimal as it allows each state commission to determine when pooling is needed and when to file its pooling petition, while providing FCC oversight to protect rural ILECs' LNP exemptions and not impose undue financial burdens on rural ILECs.

NTCA agrees with the Public Utilities Commission of Ohio assertion that "each state's numbering resource situation is unique."¹⁵ Number conservation inherently involves some costs which the Commission should view in the context of state-specific circumstances. The Commission should retain its current case-by-case consideration of state petitions and should reject calls to modify the system through universal or "blanket" designation of authority to states without Commission oversight, or through phased implementation of a national number pooling roll-out.

C. Number Pooling Criteria Are Necessary To Guide State Commissions.

The Commission should guide state commissions who want number pooling authority for rate centers and NPAs outside the top 100 MSAs, especially in rural areas. State commissions should be required to consider number pooling costs to rural ILECs and consider criteria related to rural carriers' status as non-LNP-capable carriers, 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;

Commission Comment, p. 3; Pennsylvania Public Utility Commission Comment, p. 4; South Dakota Public Utilities Commission Comment, p. 2; Public Utility Commission of Texas Comment, p. 2; NARUC Comment, p. 2; NASUCA Comment, p. 4.

¹⁴ Sprint Nextel Comment, p. 2.

¹⁵ Public Utilities Commission of Ohio Comment, p. 7.

- c) The number and percent of rate centers in the target NPA that do not have mandatory number pooling and 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.

These data are critical for the state commissions' consideration and the Commission's final determination because the data reflect which rural wireline carriers will be most affected by number pooling, how they will be affected, and whether the costs to the rural carriers of implementing number pooling outweigh the benefits of number conservation.¹⁶ OPASTCO accurately noted that "costs imposed by the implementation of thousands-block number pooling would far outweigh the minimal benefits it would have on the conservation of numbering resources, and would divert rural carriers' limited financial resources from investments that would actually benefit customers."¹⁷

The Commission and the state public service commissions cannot ignore those costs, yet judging from several comments, some public utility commissions appear eager to overlook these serious financial impacts in a rush to obtain pooling authority.¹⁸ To check state enthusiasm, therefore, the Commission should require that state public service commissions must collect and reflect rural financial impact data in their petitions for number pooling authority.

¹⁶ The State Corporation Commission of Kansas (Kansas Commission) urges the Commission to adopt nationwide number pooling and assures the Commission that the costs of number pooling are "minimal" yet the Kansas Commission has no detailed cost estimates for deploying location routing number functionality. Kansas Commission Comment, p. 2.

¹⁷ OPASTCO Comment, p. 2.

¹⁸ "Nearly 45 percent of Iowa's 817 rate centers are classified as excluded from pooling. Most of these rate centers are served by Iowa's 150 independent ILECs that are not technically capable of pooling. Most of the communities within these rate centers are small towns. Nevertheless, it is the IUB's experience that there will eventually be requests for numbering resources in many of these excluded rate centers from both wireless and wireline service providers." Iowa Utilities Board Comment, p. 6. "Time is not wasted imploring service providers to voluntarily donate blocks of numbers to a pool in an optional pooling area." Public Utilities Commission of Ohio Comment, p. 10.

The Commission also should retain two of its current criteria (*i.e.*, the target NPA is in jeopardy and the NPA has an expected lifespan of at least one year) in making its decisions on state number pooling petitions.¹⁹ There is no need to remove or alter these criteria as jeopardy status demonstrates the timeliness of number pooling, and life expectancy gives usefulness to the number pooling process. NTCA agrees with the Rural Iowa Independent Telephone Association that the jeopardy “criterion helps ensure that mandatory pooling is necessary and in the public interest” while a life span of one year is better than three years because “three years is too long to adequately predict exhaustion.”²⁰ These two criteria should be preserved in the Commission’s standard of review for number pooling petitions.

D. Preserve Rural Carriers’ LNP Exemption.

The Commission should retain the current federal and state rural LNP exemptions and should disregard any proposal to the contrary.²¹ As demonstrated in NTCA’s previous filings,²² implementing local number portability can be extremely expensive and may force rural ILECs to pass those costs on to their customers. NTCA agrees with OPASTCO that the Commission “must exempt rural ILECs that have not received a request to provide local number portability.”²³ The Commission must continue to recognize the rural carriers’ LNP exemption²⁴ and not force non-LNP-capable rural carriers to implement full LNP capability solely as a result

¹⁹ *Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd. 7652 (Mar. 31, 2000); Nebraska Rural Independent Phone Companies Comment, p. 3; Verizon Comment, p. 1; Public Utility Commission of Texas Comment, p. 2.

²⁰ Rural Iowa Independent Telephone Association Comment, pp. 3-4.

²¹ *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).

²² NTCA *ex parte*, CC Docket No. 99-200 (Jan. 25, 2006), pp. 2-3; NTCA Comments, p. 5, n. 15.

²³ OPASTCO Comment, p. 1.

²⁴ Order at ¶ 5.

of the delegation of authority set forth in the Commission's Order.²⁵ The Commission required five state commissions in its Order to implement this delegation consistent with the exemption for the above rural, Tier III CMRS and sole service providers, and the Commission should continue this path.²⁶ The Commission should disregard comments to the contrary.²⁷

II. CONCLUSION

For all the reasons set forth here and in NTCA's initial comments and ex parte filing, the Commission should retain its current case-by-case consideration of state petitions for number pooling outside the top 100 MSAs. The Commission should use the existing NPA jeopardy status and one-year lifespan criteria in its decision-making process, and the Commission should include LNP-capability restrictions discussed herein as criteria for approval. The Commission should also retain the current rural LNP exemption in any number pooling order.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS
COOPERATIVE ASSOCIATION

By: /s/ Daniel Mitchell

Daniel Mitchell

Karlen Reed

Its Attorneys

4121 Wilson Boulevard, 10th Floor
Arlington, VA 22203
703 351-2000

Dorie Pickle
Telecommunications Analyst

June 13, 2006

²⁵ *Id.* at ¶ 11.

²⁶ *Ibid.*

²⁷ California Public Utility Commission Comment, p. 7 (all service providers with full LNP-capability should be required to pool, including rural service providers who are now exempt from having to pool).

CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Reply Comments of the National Telecommunications Cooperative Association in CC Docket No. 99-200, FCC 06-14 was served on this 13th day of June 2006 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons.

/s/ Gail Malloy

Gail Malloy

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, SW, Room 8-B201
Washington, D.C. 20554
Kevin.Martin@fcc.gov

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

Commissioner Deborah Taylor Tate
Federal Communications Commission
445 12th Street, SW, Room 8-A204
Washington, D.C. 20554
Deborah.Tate@fcc.gov

Sheryl Todd
Telecommunications Access Policy
Division
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, SW, Room 5-B540
Washington, D.C. 20554
Sheryl.Todd@fcc.gov

Commissioner Michael J. Copps
Federal Communications Commission
445 12th Street, SW, Room 8-B115
Washington, D.C. 20554
Michael.Copps@fcc.gov

Richard E. Hitt, Esq.
West Virginia Public Service
Commission
201 Brooks Street
P.O. Box 812
Charleston, WV 25323

Commissioner Jonathan S. Adelstein
Federal Communications Commission
445 12th Street, SW, Room 8-A302
Washington, D.C. 20554
Jonathan.Adelstein@fcc.gov

Shana Knutson, Esq.
Nebraska Public Service Commission
300 The Atrium Building
12 N Street
Lincoln, Nebraska 68508

Commissioner Robert M. McDowell
Federal Communications Commission
445 12th Street, SW, Room 8-C302
Washington, D.C. 20554
Robert.McDowell@fcc.gov

Lenora F. Burdine, Esq.
Oklahoma Corporation Commission
P.O. Box 52000
Oklahoma City, OK 73152

Michael A. Cox, Esq.
Michigan Public Service Commission
Public Service Division
6545 Mercantile Way, Suite 15
Lansing, MI 48911

Marc D. Poston, Senior Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Robert G. Mork
Deputy Consumer Counselor for Federal
Affairs
Indiana Office of Utility Consumer
Counselor
100 N. Senate Ave., Room N-501
Indianapolis, IN 46204 -2215

David Lott Hardy, Chairman
Indiana Utility Regulatory Commission
302 W. Washington Street, Suite E-306
Indianapolis, IN 46204-2764

Cecelia A. Gassner
Deputy Attorney General
Idaho Public Utilities Commission
P. O. Box 83720
Boise, ID 83720-0074

NASUCA
8380 Colesville Road, Suite 101
Silver Spring, MD 20910

David C. Bergmann, Chair
NASUCA Telecommunications
Committee
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215

Rolayne Ailts Weist, Esq.
South Dakota Public Utilities
Commission
500 East Capitol
Pierre, SD 57501

Rosemary McMahill
Public Utility Commission of Texas
1701 North Congress Avenue
P.O. Box 13326
Austin, TX 78711-3326

Ann L. Hammerstein, Deputy Attorney
General
Public Utilities Section
Public Utilities Commission of Ohio
180 East Broad Street, 9th Floor
Columbus, OH 43215

Stuart Polikoff, Director of Government
Relations
Brian Ford, Policy Analyst
Organization for the Promotion and
Advancement of Small
Telecommunications Companies
21 Dupont Circle, NW
Suite 700
Washington, D.C. 20036

John Ridgeway, Telecommunications
Manager
Michael Balch, Utility Specialist
Iowa Utilities Board
350 Maple Street
Des Moines, IA 50319

Paul M. Schudel, Esq.
James A. Overcash, Esq.
Woods & Aitken LLP
301 South 13th Street, Suite 500
Lincoln, Nebraska 68508

Carol Smith Rising
New Mexico Public Regulation
Commission
P.O. Box 1269
Santa Fe, NM 87504-1269

William K Haas, Deputy General
Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Lois A. Burns, Assistant Counsel
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17105

Nichole Underhill, Esq.
Nebraska Public Service Commission
300 The Atrium Building
1200 N Street
Lincoln, Nebraska 68508

Susan B. Cunningham, General Counsel
Colleen R. Harrell, Assistant General
Counsel
Kansas Corporation
1500 SW Arrowhead Drive
Topeka, KS 66604

Thomas G. Fisher Jr.
Executive Director and General Counsel
Rural Iowa Independent Telephone
Association
1000 Walnut Street, Suite 324
Des Moines, Iowa 50309

Angela N. Brown, Esq.
Bellsouth Corporation
675 West Peachtree Street, NE
Atlanta, GA 30375-0001

Karen Zacharia, Esq.
Amy P. Rosenthal, Esq.
Michael E. Glover
Of Counsel
Verizon
1515 North Court House Road
Suite 500
Arlington, VA 22201

James Bradford Ramsay, General
Counsel
Grace Soderberg, Assistant General
Counsel
National Association of Regulatory
Utility Commissioners
1101 Vermont Ave., NW
Suite 200
Washington, D.C. 20005

Lionel B. Wilson, Esq.
Laura E. Gasser, Esq.
California Public Utilities Commission
and the People of the State of
California
505 Van Ness Avenue
San Francisco, CA 94102

Luisa L. Lancetti, Vice President
Charles W. McKee, Director
Scott R. Freiermuth, Attorney
Government Affairs – Wireless
Regulatory
Sprint Nextel Corporation
401 9th Street, NW, Suite 400
Washington, D.C. 20004

Dawn Jablonski Ryman, General
Counsel
Dakin D. Lecakes, Assistant Counsel
New York Department of Public Service
Three Empire State Plaza
Albany, NY 12223-1350

Amy E. Dougherty
Kentucky Public Service Commission
P.O. Box 615
Frankfort, KY 40602