



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

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| In the Matter of |) | |
| |) | |
| Numbering Resource Optimization |) | CC Docket No. 99-200 |
| |) | |
| Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 |) | CC Docket No. 96-98 |
| |) | |

**THE KENTUCKY PUBLIC SERVICE COMMISSION'S
 PETITION FOR ADDITIONAL DELEGATED AUTHORITY
 TO IMPELEMENT NUMBER CONSERVATION MEASURES**

The Kentucky Public Service Commission (KPSC) hereby respectfully submits this petition to the Federal Communications Commission (FCC) for an expedited decision for authority to implement additional number conservation measures. The KPSC requests this authority to ensure that the public is protected from the unnecessary costs and confusion related to area code splits or overlays. More specifically, the KPSC seeks delegated authority to maximize the use of numbering resources available by implementing mandatory thousands-block number pooling within the 270 Numbering Plan Area (NPA) in the state of Kentucky.

The Telecommunications Act of 1996 (1996 Act)¹ allows the FCC to delegate to state commissions or other entities jurisdiction over numbering. The KPSC appreciates the FCC's understanding of the states' need for immediate action in order to optimize number conservation measures. In the *Numbering Resource Optimization Notice*,² the FCC concluded that thousands-block number pooling is an important numbering resource optimization strategy, essential to extending the life of the North American Number Plan (NANP). In the *Numbering Resource*

¹ Pub. L. No. 104-104, 110 Stat. 56 (1996 Act).

² See *Numbering Resource Optimization Notice*, 14 FCC Rcd at 10383-84.

and Optimization First Report and Order,³ the FCC held that state commissions seeking thousands-block number pooling authority first demonstrate that 1) an NPA in its state is in jeopardy; 2) the NPA in question has a remaining life span of at least a year; and 3) the NPA is in one of the largest 100 metropolitan statistical areas (MSAs), or alternatively, the majority of wireline carriers in the NPA are Local Number Portability (LNP) capable.⁴ However, the FCC further recognized that “special circumstances” may exist in which pooling would be beneficial in the NPAs that do not meet all of the above criteria, and stated that it may authorize mandatory pooling in such an NPA upon a satisfactory showing by a state commission of special circumstances.⁵ In 1998, the FCC adopted the Pennsylvania Numbering Order⁶ where it delegated authority to state commissions to order NXX code rationing in conjunction with area code relief decisions, in the absence of industry consensus. In the Pennsylvania Numbering Order, the FCC also encouraged state commissions to seek further limited delegations of authority to implement number conservation measures.⁷

The KPSC requests delegated authority to require mandatory implementation of thousands-block number pooling for rate centers in which such action will extend the life of the area code by utilizing existing resources that would otherwise remain stranded. The Order and Fifth Further Notice of Proposed Rulemaking (FNPRM) on Numbering Resource Optimization measures which the FCC released on February 24, 2006 granted the petitions of five state commissions requesting delegated authority to implement mandatory thousands-block number

³ See *Numbering Resource Optimization*, CC Docket No. 99-200, FCC 00-104, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd. 7574 (Mar. 31, 2000) (Numbering Resource Optimization First and Order).

⁴ See *id.* at 7652.

⁵ See *id.*

⁶ See *In the Matter of the Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717*, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009 (1998).

⁷ See *id.*

pooling areas where pooling is currently optional. In addition, other states have since requested similar authority from the FCC.

NANPA has informed the KPSC that the 270 NPA is in jeopardy, and is currently projected to exhaust its supply of available numbers in the fourth quarter of 2007. Thus, the KPSC asserts that the first two of the FCC's criteria have been met. The KPSC, to the best of its knowledge, further asserts that a majority of providers within the 270 NPA are currently LNP capable. Therefore, all criteria as set forth by the FCC have been met, and special circumstances further warrant a grant of additional authority to the KPSC so that it may implement mandatory thousands-block pooling in the 270 NPA region in Kentucky.

Background

Kentucky was first advised of the need for NPA relief in this area of Kentucky in November 1997, when the KPSC was informed that available numbers in the 502 NPA (a portion of which now constitutes the 270 NPA) would exhaust in 1999. The KPSC conducted a series of public meetings within Louisville and Western Kentucky in order to gain citizen input. Following those meetings, the KPSC determined that a traditional geographic split of the 502 NPA would be implemented. 502 NPA relief began in April 1999, with the creation of the 270 NPA. Code assignments were not made within the 270 NPA until November of 1999. In a report dated January 18, 2000, the Central Office Code Utilization Survey (COCUS) results published by NANPA estimated that the 270 NPA would not reach exhaustion until the third quarter of 2006.

NANPA first filed a petition for relief of the 270 NPA on July 25, 2001. At that time, the projected exhaust date of the 270 NPA was estimated to be the second quarter of 2004, as opposed to the third quarter of 2006, as estimated by the January 2000 COCUS results. In

response to NANPA's filing, the KPSC issued a number conservation order with the intent of extending the life of the 270 NPA. Recognizing the benefits provided by thousands-block number pooling, the KPSC filed a petition with the FCC on July 2, 2001 for interim delegated authority to implement number pooling trials within the 270 NPA. On June 18, 2001, the Common Carrier Bureau announced that a national number pooling administrator had been chosen and the national pooling rollout schedule would be released in March 2002. On October 9, 2001, the FCC, through public notice, announced that it would not address any petitions filed on or after June 18, 2001 for authority to implement state thousands-block number pooling. Therefore, the KPSC's petition was never addressed by the FCC. As part of the nationwide rollout schedule, voluntary thousands-block number pooling was implemented in the 270 NPA in 2003. The measures taken by the FCC and the KPSC, along with reduced historical and projected demand for numbering resources by industry members, contributed to extending the projected exhaust date of the 270 NPA, and eliminated the need for a docketed case with the KPSC to address numbering relief in the NPA.

On July 18, 2006, NANPA submitted a filing to the KPSC indicating that the projected exhaust date of the 270 NPA was the first quarter of 2009. At that time, the KPSC opened a docketed case, Case Number 2006-00357, to determine an appropriate relief method for the 270 NPA. NANPA has since notified the KPSC that the projected exhaust date for the 270 NPA has been moved up to the fourth quarter of 2007. While the KPSC has not yet made a determination of whether to implement an area code split or overlay, the KPSC believes that need for relief measures may be delayed significantly if the FCC grants the KPSC authority to implement mandatory thousands-block pooling. Given the rural nature of Kentucky, the numbers attributable to the 270 NPA are not fully utilized.

Discussion

As indicated in NANPA's recent update to its 2006 NPA Exhaust Analysis, the exhaust date of the 270 NPA has been moved forward due to an increased demand for codes within the NPA. The 270 NPA currently participates in optional thousands-block number pooling due to the absence of any top 100 MSAs. As in other states, carriers in Kentucky are reluctant to participate in voluntary pooling in rate centers that are outside of the top 100 MSAs. As a result, some carriers have chosen not to participate in optional pooling and continue to request full NXX codes.

In the 270 NPA, a total of 715 codes have been assigned. The 270 NPA consists of 168 rate centers. Out of those 168 rate centers, 120 rate centers have optional pooling, 7 rate centers have mandatory pooling, and 41 rate centers are excluded from pooling. Four of the 7 mandatory pooling rate centers have only one service provider. A recent utilization report, as compiled by NANPA, listed 2,061 blocks of 1,000 numbers that have been assigned to carriers that are currently serving no customers.⁸ Therefore, those thousands-blocks are completely unused. Of those blocks, 1,057 have been donated to the pool. However, there remain over 1,000 blocks that have not been donated to the pool. In addition, according to NRUF data for September 2006, the current utilization rate for the entire 270 NPA is listed as only 30%. Some carriers continue to request full NXX codes that are not fully utilized. Thus, thousands of numbers may continue to be stranded in the largely rural areas of the 270 NPA.

Accordingly, the KPSC requests authority to mandate thousands-block pooling in LNP-capable rate centers located outside the nation's top 100 MSAs. This action may extend the life of the area code by utilizing existing resources that would otherwise remain stranded. Upon

⁸ Cycle date, August 1, 2006.

implementation of this authority, carriers would be required to return any existing unused blocks meeting the contamination level to the pool for reassignment to other carriers.

In support of this Petition, the KPSC states that a state of jeopardy has been declared by NANPA in the 270 NPA, and that final jeopardy procedures will take effect on October 1, 2006. Further, the current projected exhaust date of the 270 NPA is the fourth quarter of 2007, and, thus, the NPA has a remaining life span of at least one year. Additionally, the KPSC asserts that, to the best of its knowledge, a majority of carriers within the 270 NPA are currently LNP-capable. Of additional concern to the KPSC is the fact that relief is being required in the 270 NPA so soon after its creation. The 270 NPA has currently been in operation just under seven years. For the reasons set forth herein, the KPSC respectfully submits that the 270 NPA meets the criteria set forth by the FCC along with the special circumstances test, and requests an order delegating to the KPSC the authority to require mandatory thousands-block number pooling in the 270 NPA.

Conclusion

The KPSC seeks delegated authority to implement mandatory thousands-block number pooling in the 270 NPA so that it might prolong the life of the 270 NPA. In so doing, the KPSC hopes that this measure may prevent the imposition of additional burdens on the public. Since time is of the essence to ensure that number conservation measures have the maximum effect on reducing the demand for numbering resources, and to avoid premature area code relief, the KPSC respectfully requests that the FCC grant its request for additional delegated authority on an expedited basis.

October 5, 2006
Date

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