

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

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
)	

**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
INITIAL COMMENTS**

The National Telecommunications Cooperative Association (NTCA)¹ hereby responds to the Federal Communications Commission’s (FCC or Commission) Notice of Pleading Cycle (Notice)² seeking comment on the Kentucky Public Service Commission (KYPSC) October 10, 2006 Petition (Petition) to extend thousands block number pooling (number pooling) in Kentucky rural rate centers within the 270 Numbering Plan Area (NPA or area code), which includes most of western Kentucky. The Commission should either deny the KYPSC Petition for failing to include rural carrier financial impact data or require that any grant of number

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents 575 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.

² *Numbering Resource Optimization*, Notice of Pleading Cycle Established for Comments on the Kentucky Public Service Commission’s Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket No. 99-200 and CC Docket No. 96-98, DA 07-235 (rel. Jan. 26, 2007) (Notice).

pooling authority will not jeopardize rural carriers' local number portability (LNP) exemption, similar to the Commission's direction in its November 9, 2006 Pooling Order.³

I. INTRODUCTION

On October 10, 2006, the KYPSC filed a Petition for additional delegated authority to implement number conservation measures in response to the Commission's February 24, 2006, 5th NPRM that sought comment on extending the number pooling authority to all MSAs outside the top 100 MSAs.⁴ The KY PSC specifically sought authority to implement number pooling in Kentucky's 270 number plan area (NPA), which has 168 rate centers and encompasses the western portion of Kentucky.⁵ According to the KYPSC Petition, only 7 of the 168 rate centers have mandatory pooling, and the remaining 161 rate centers are optional or excluded from pooling.⁶ NTCA represents several rural carriers who provide services in the 270 NPA, and some of those rural carriers are currently exempt from LNP requirements in some or all of the rate centers due to lack of competition or other reasons.

The Commission, in the 5th NPRM, recognized that some rural carriers should be exempt from LNP⁷ 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."⁸

The Commission also required state commissions, in exercising delegated number pooling

³ *In the Matter of Numbering Resource Optimization, Petition for Delegated Authority by the Public Utilities Commission of Ohio, Petition of the New York State Department of Public Service for Mandatory Pooling, Petition of the Washington Utilities and Transportation Commission for Mandatory Number Pooling, The New Mexico Public Regulation Commission's Petition for Delegated Authority to Implement Additional Number Conservation Measures*, CC Docket No. 99-200, Order (filed Nov. 15, 2006) (Pooling Order), ¶¶ 4, 13-15.

⁴ *Numbering Resource Optimization*, Fifth Further Notice of Proposed Rulemaking, CC Docket No. 99-200 (rel. February 17, 2006) (5th NPRM), ¶ 16.

⁵ KYPSC Petition, pp. 3, 5.

⁶ *Ibid.*

⁷ 5th NPRM, ¶ 5.

⁸ *Id.*, ¶ 11.

authority, to implement this delegation consistent with the exemption for the above rural, Tier III CMRS and sole service providers.⁹

The Commission reiterated these requirements in its November 15, 2006 number pooling order (Pooling Order) which addressed similar petitions filed by the Ohio, New York, Washington and New Mexico public service commissions.¹⁰ In the Pooling Order, the Commission continued its NPA-specific analysis of the state pooling petitions and, in Paragraph 14, reiterated its mandate that:

“[S]tate commissions, in exercising the authority delegated to them herein to implement number pooling, implement this delegation consistent with the federal exemption for these carriers, as described above. Accordingly, we expect that rural carriers who are not LNP capable will not be required to implement pooling solely as a result of the delegation of authority set forth in this Order.”¹¹

The Commission recognized that number pooling creates a financial burden on carriers and their customers, and this burden should not be imposed on rural carriers who are not LNP capable.¹²

II. ARGUMENT

The Commission should continue its NPA-specific analysis of state pooling petitions and should require that any grant of number pooling authority does not jeopardize rural carriers' LNP exemption. Some rural telephone companies are exempt from the FCC's number pooling requirement because they have not received a request to provide LNP.¹³ Also exempt from

⁹ *Ibid.*

¹⁰ *In the Matter of Numbering Resource Optimization, Petition for Delegated Authority by the Public Utilities Commission of Ohio, Petition of the New York State Department of Public Service for Mandatory Pooling, Petition of the Washington Utilities and Transportation Commission for Mandatory Number Pooling, The New Mexico Public Regulation Commission's Petition for Delegated Authority to Implement Additional Number Conservation Measures*, CC Docket No. 99-200, Order (filed Nov. 15, 2006) (Pooling Order).

¹¹ Pooling Order, ¶ 14.

¹² *Id.*

¹³ *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, CC Docket No. 99-

number pooling are rural carriers that are the only service provider receiving numbering resources in a given rate center.¹⁴ 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. Circuit's Intermodal LNP Remand Order.¹⁵ The Commission has recognized the validity of these exemptions in its 5th NPRM¹⁶ and should remind the KYPSC to respect the LNP exemptions due to the costs to rural carriers of upgrading their systems to implement number pooling where competition does not exist.¹⁷

The KYPSC Petition fails to reference any consideration of the financial impacts that mandatory number pooling will have on affected rural carriers, or that number pooling will not risk LNP exemptions. This failure reveals a hidden danger to rural customers who may have to bear pooling costs in the form of an additional surcharge, based on the Pooling Order. Whereas carriers who operate in urban settings may be able to minimize the pooling surcharge by spreading the costs among a large customer base, this is not necessarily true with carriers operating in rural areas, where the density is considerably lower. The Commission should reflect in its order, as it did in the Pooling Order, that the rural carriers retain their right to petition, and receive, waivers from pooling as appropriate.¹⁸

200 and 95-116, and Fourth Further Notice of Proposed Rulemaking, CC Docket No. 99-200, FCC 03-126, (rel. June 18, 2003), ¶ 18.

¹⁴ 5th NPRM, ¶ 19.

¹⁵ *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).

¹⁶ 5th NPRM, ¶ 11.

¹⁷ Upgrading a switch to be LNP-capable 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), p. 3.

¹⁸ Pooling Order, ¶ 15.

III. CONCLUSION

The KYPSC is, understandably, concerned about costs to consumers due to stranded numbers but must also recognize that mandatory number pooling may increase the costs to rural carriers, especially rural ILECs who will be forced to pass those costs to customers and, consequently, will have less capital to invest in their infrastructure. For these reasons, the Commission should continue its NPS-specific analysis and require the KYPSC to confirm that number pooling will not violate rural carriers' LNP exemptions.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS
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February 12, 2007

CERTIFICATE OF SERVICE

I, Rita H. Bolden, certify that a copy of the foregoing Initial Comments of the National Telecommunications Cooperative Association in CC Docket No. 99-200 and CC Docket No. 96-98, DA 07-235, was served on this 12th day of February 2007 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons:

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