

**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  
REPLY COMMENTS**

The National Telecommunications Cooperative Association (NTCA)<sup>1</sup> hereby responds to initial comments filed February 12, 2007, regarding the Federal Communications Commission’s (FCC or Commission) Notice<sup>2</sup> seeking comment on the Kentucky Public Service Commission (KYPSK) October 10, 2006 Petition (Petition) to extend thousands block number pooling (number pooling) in western Kentucky rural rate centers within the 270 Numbering Plan Area (NPA).<sup>3</sup> Silence on any positions or proposals raised by parties in this proceeding connotes neither agreement nor disagreement with their positions or proposals.

The Commission should reject commenters’ calls that go beyond the Kentucky Petition and seek broad, blanket number pooling authority outside of the top 100 metropolitan statistical areas (MSAs) without Commission oversight and review. Instead, the Commission should

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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 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.

<sup>2</sup> *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).

<sup>3</sup> *The Kentucky Public Service Commission’s Petition for Additional Delegated Authority To Implement Number Conservation Measures*, CC Docket No. 99-200, CC Docket No. 96-98 (filed Oct. 10, 2006) (Petition).

continue to require NPA-specific petitions as it has in the past.<sup>4</sup> This is the only way the Commission can ensure that states seeking number pooling authority in rural areas have met the Commission's criteria for pooling and that imposing pooling costs on rural customers is just and reasonable. NTCA also affirms its position<sup>5</sup> that the Commission should condition any grant of number pooling authority such that the Kentucky commission will not jeopardize rural carriers' local number portability (LNP) exemption.

### **I. Blanket Number Pooling Authority Ignores NPA-Specific Issues.**

NARUC, Sprint Nextel and the Nebraska Public Service Commission take this comment opportunity to push for blanket, unrestrained number pooling authority in all NPAs without Commission oversight or delegation of authority.<sup>6</sup> This is the wrong approach and should be rejected because blanket number pooling (*i.e.*, delegation of pooling authority without a showing of need or merit) ignores NPA-specific issues such as those captured by the Commission's number pooling criteria. The three primary criteria are: 1) the target NPA is in jeopardy, 2) the NPA has an expected lifespan of at least one year, and 3) the NPA is in one of the largest 100 MSAs, or alternatively, the majority of wireline carriers in the NPA are LNP-capable.<sup>7</sup>

The Commission has used a "special circumstances" exception<sup>8</sup> to negate the third pooling criterion in some circumstances, but so far has held firm on the first two criteria. In response to the Commission's Order and Fifth Further Notice of Proposed Rulemaking (5<sup>th</sup>

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<sup>4</sup> *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) (Ohio Pooling Order) (granting petitions in whole or in part by Ohio, New York, Washington, and New Mexico); *Numbering Resource Optimization, Order and Fifth Notice of Public Rulemaking*, CC Docket No. 99-200 (rel. Feb. 24, 2006) (granting petitions by West Virginia, Nebraska, Oklahoma, Michigan, and Missouri) (5<sup>th</sup> NPRM).

<sup>5</sup> NTCA Comment, pp. 1-2.

<sup>6</sup> NARUC Comment, p. 4; Sprint Nextel Comment, pp. 4-5; NEPSC Comment, p. 2.

<sup>7</sup> 5<sup>th</sup> NPRM, ¶ 4.

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

NPRM),<sup>9</sup> NTCA urged the Commission to retain the first two 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 all state number pooling petitions.<sup>10</sup> There still is no need to remove or alter these two criteria as jeopardy status demonstrates the timeliness of number pooling, and life expectancy gives usefulness to the number pooling process. These two criteria should be preserved in the Commission's standard of review for number pooling petitions.

The merit of using these criteria for rural areas has not diminished now that number pooling has been rolled out in NPAs in the top 100 MSAs. Rural areas outside the top 100 MSAs, such as those contained in western Kentucky, require the Commission's focused attention to number resource management as the costs of pooling (and any local number porting costs that may result) will be borne by a small customer base, and each individual rural customer will feel the financial burden of pooling. Pooling should not be done unless the state commissions demonstrate need, not merely convenience.

The Commission has not yet released its order to the 5<sup>th</sup> NPRM request for comments, and this Kentucky Petition is the only remaining unresolved number pooling request. NTCA maintains its position<sup>11</sup> for the 5<sup>th</sup> NPRM and for the Kentucky Petition that the Commission should consider number pooling on a case-by-case basis, should not grant number pooling unless the state commissions satisfy the number pooling criteria, and should not jeopardize rural carriers' local number portability (LNP) exemption by mandating number pooling.

Using NPA-specific petitions permits the Commission to examine closely the requests by state commissions to determine whether the state has met the criteria to merit pooling authority.

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<sup>9</sup> 5<sup>th</sup> NPRM.

<sup>10</sup> NTCA Reply Comment, 5<sup>th</sup> NPRM, p. 6 (filed June 13, 2006).

<sup>11</sup> NTCA Initial Comment, 5<sup>th</sup> NPRM, p. 1 (filed May 14, 2006); NTCA Reply Comment, 5<sup>th</sup> NPRM, p. 7 (filed June 13, 2006).

For example, the Commission denied numbering relief sought by the New York Department of Public Service for the 516, 585, 607, 761, 718/347, 914, and 917 NPAs.<sup>12</sup> Presumably, relief was not granted because the New York Petition did not meet the Commission's criteria for pooling authority.<sup>13</sup> Likewise, the Commission did not grant the request of the Public Utilities Commission of Ohio for the pooling in the 330/234 and 419/567 NPAs, or the Washington Utilities and Transportation Commission's request for the 206 NPA.<sup>14</sup>

The Commission should examine the Kentucky Petition carefully to ensure that the KYPSC demonstrated that the 168 rate centers (of which 161 are optional pooling) in the 270 NPA satisfy the Commission's pooling criteria. Critical examination will force Kentucky (and all other future state petitioners) to carefully scrutinize the needs and impacts of pooling in conformity with the Commission's pooling criteria. If the Petition is deficient, then the Commission should not delegate the authority.

## **II. Number Pooling Should Not Preempt Local Number Portability Exemptions.**

The Commission should continue to require that state commissions who implement a delegation of number pooling authority must do so consistent with the federal exemption for rural carriers who are not LNP-capable. Because the Kentucky Petition does not specifically state that its number pooling authority will not be used to jeopardize non-LNP-capable status for rural carriers, the Commission should include this prohibition in any order on the Kentucky Petition.

The Commission, in the 5<sup>th</sup> NPRM and in its November 15, 2006 Ohio/New York/Washington/New Mexico pooling order, recognized that some rural carriers should be

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<sup>12</sup> Ohio Pooling Order, ¶ 6, n. 19.

<sup>13</sup> The Commission did not state its reasons for not granting relief for these NPAs.

<sup>14</sup> Ohio Pooling Order, ¶ 6, n. 19.

exempt from LNP<sup>15</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>16</sup> The Commission should continue to require state commissions, including the Kentucky Public Service Commission, to respect that mandate. Number pooling creates a financial burden on carriers and their customers and LNP creates a greater burden. These burdens should not be imposed on rural carriers and their customers unnecessarily.

### **III. Conclusion.**

For the reasons stated above, the Commission should continue its NPA-specific analysis approach to number pooling, should not delegate number pooling to the KYPSC unless its 270 NPA Petition satisfies the Commission’s number pooling criteria, and should remind the KYPSC to respect rural carriers’ LNP exemptions.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS  
COOPERATIVE ASSOCIATION

By: /s/ Daniel Mitchell  
Daniel Mitchell

By: /s/ Karlen J. Reed  
Karlen J. Reed

*Its Attorneys*

4121 Wilson Boulevard, 10<sup>th</sup> Floor  
Arlington, VA 22203  
(703) 351-2000

February 27, 2007

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<sup>15</sup> 5<sup>th</sup> NPRM, ¶ 5.

<sup>16</sup> *Id.*, ¶ 11.

**CERTIFICATE OF SERVICE**

I, Adrienne L. Rolls, certify that a copy of the foregoing Reply 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 27th day of February 2007 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons:

Chairman Kevin J. Martin  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-B201  
Washington, D.C. 20554  
[Kevin.Martin@fcc.gov](mailto:Kevin.Martin@fcc.gov)

Commissioner Deborah Taylor Tate  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-A204  
Washington, D.C. 20554  
[Deborah.Tate@fcc.gov](mailto:Deborah.Tate@fcc.gov)

Commissioner Michael J. Copps  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-B115  
Washington, D.C. 20554  
[Michael.Copps@fcc.gov](mailto:Michael.Copps@fcc.gov)

Commissioner Jonathan S. Adelstein  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-A302  
Washington, D.C. 20554  
[Jonathan.Adelstein@fcc.gov](mailto:Jonathan.Adelstein@fcc.gov)

Commissioner Robert M. McDowell  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-C302  
Washington, D.C. 20554  
[Robert.McDowell@fcc.gov](mailto:Robert.McDowell@fcc.gov)

Best Copy and Printing, Inc.  
445 12th Street, SW  
Room CY-B402  
Washington, D.C. 20554  
[fcc@bcpweb.com](mailto:fcc@bcpweb.com)

Janice Myles  
Federal Communications Commission  
Competition Policy Division, WCB  
445 12<sup>th</sup> Street, SW, Room 5-C140  
Washington, D.C. 20554  
[Janice.myles@fcc.gov](mailto:Janice.myles@fcc.gov)

Laura H. Carter  
Scott R. Freiermuth  
SPRINT NEXTEL CORPORATION  
2001 Edmund Halley Drive  
Reston, Virginia 20191

Shana Knutson  
NEBRASKA PUBLIC SERVICE  
COMMISSION  
300 The Atrium Building  
1200 N Street  
Lincoln, Nebraska 68508

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

David S. Samford  
Amy E. Dougherty  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, KY 40602

/s/ Adrienne L. Rolls  
Adrienne L. Rolls