

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In The Matter of Petitions For Waiver
Of Commission's Rules Regarding
Access To Numbering Resources.

CC Docket No. 99-200

**COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION
AND THE PEOPLE OF THE STATE OF CALIFORNIA**

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January 25, 2012

The California Public Utilities Commission and the People of the State of California and (CPUC or California) submit these comments in response to the above-referenced Public Notice released December 27, 2011. In the Public Notice, the Federal Communications Commission (FCC or Commission) seeks comment on whether the Commission should grant a limited waiver of section 52.15(g)(2)(i) of the Commission's rules to allow the requesting Voice over Internet Protocol (VoIP) providers direct access to numbering resources from the North American Numbering Plan Administrator (NANPA) and the Pooling Administrator (PA).

I. INTRODUCTION

In 1999, California was one of a number of states that raised to the FCC the need for new rules to govern the allocation and assignment of telephone number. The FCC ultimately deemed telephone numbers to be a public resource in its 2000 Decision in the Numbering Resources Optimization Docket. Working with the states, the FCC created a set of rules that served to remove management of this public resource from the industry and place it in the hands of representatives of the public. For the past decade, the rules the FCC adopted, coupled with the authority the FCC itself has exercised and has delegated to the states, have served to extend the life of the North American Numbering Plan by decades, thus sparing the public the cost and inconvenience of having to undergo implementation of countless new area codes. The FCC's rules, developed with input from the states and the industry, all were designed for the legacy numbering system, which links telephone numbers to the location of service providers' switch(es).

Times and technologies have changed. First, wireless carriers stretched the limits of the geographically-based numbering system because their local service areas extended far beyond the local calling area established in any state.¹ Indeed today, many wireless carriers offer nationwide calling areas, and charge for their service by the minute, not by the distance the call travels. Newer technologies, such as VoIP and other IP-enabled services have been introduced and are not dependent on geographic location, and many of them do not have physical switches into which their assigned telephone numbers are programmed.²

As a result of these changes, the Petitions for Limited Waiver that Vonage and other VoIP providers filed with the FCC in 2005 (Vonage Petition), and this effort to refresh the record developed in 2005, present the FCC with an historic opportunity to begin moving the legacy numbering system away from a structure based entirely on geographical location. The FCC instead could steer the industry towards a numbering system that recognizes and accommodates new technologies not constrained by geographical network deployment. In so doing, the Commission would eliminate elements of the legacy numbering resources allocation system that are inherently wasteful. This is the FCC's chance to update the rules adopted in 2000 to reflect the changed landscape of the telecommunications industry. At the same time, updated rules would create additional protections for the public as newer technologies are beginning to

¹ The local calling area in California is a 12-mile radius from the rate center of any customer's exchange.

² Rather, as discussed further below, the numbers used by carriers without physical facilities are programmed into switches by underlying carriers, who hold the numbers as recorded in the Local Exchange Routing Guide (LERG).

demand and absorb telephone numbers at an increasing rate, thus once again contributing to the need to add new area codes at a rapid rate.

In the Vonage Petition, the filing carriers ask the FCC to authorize their direct access to numbers in the NANP. California is concerned that inserting a service employing a new technology into a numbering structure designed for older communications technology will only exacerbate the inefficiencies of the current numbering structure. While the CPUC does not oppose allowing VoIP providers direct access to number in the NANP, doing so affords the FCC a chance to, at least in part, eliminate a structure which makes number utilization inefficient and which is becoming more and more outdated. In addition, the FCC can seize this moment to make new rules that benefit consumers and promote more efficient use of numbers.

II. BACKGROUND

In 2004, SBC Internet Services (SBCIS) filed a petition with the FCC seeking a limited waiver of the Commission's numbering rules to allow SBCIS to obtain telephone numbers directly from the NANPA and/or the PA without obtaining certification from each state as a competitive local exchange carrier. The CPUC opposed that request, as did other states, but the FCC granted SBCIS the relief sought. Subsequently, Vonage et al, submitted a parallel request, seeking the same authority the FCC had granted SBCIS. In responding to the Vonage Petition, the CPUC submitted comments in which it did not oppose the request, but asked the FCC to preserve states' jurisdiction to impose and enforce their own numbering requirements:

In light of the Commission's decision to grant a limited waiver to one VoIP provider (subject to certain conditions), however, the CPUC does not oppose granting the same limited waiver to similar VoIP providers, under the same conditions. In addition, the CPUC urges the Commission to affirm that such VoIP providers (including SBCIS) are subject to state numbering requirements (established pursuant to authority delegated by the Commission) *to the same extent that other companies are subject to those requirements*. [Original emphasis.]

With minor exceptions, each petitioning VoIP provider seeks the same limited waiver granted to SBCIS and commits to complying with the conditions imposed on SBCIS. [Footnote omitted] Based on the information in the petitions, it appears that the petitioners are similar to SBCIS such that 'comparable' waivers are appropriate. [Footnote omitted.] The CPUC expects that the Commission will address, in its *IP-Enabled Services* proceeding, the appropriate regulatory status of companies providing IP-enabled services, including whether and to what extent such entities should be subject to traditional common carrier regulation. In the interim, however, if VoIP providers are able to obtain numbering resources without state certification, the state numbering requirements that are a condition of the Commission's limited waiver should explicitly be enforceable by state commissions.³

The CPUC's position has not changed insofar as the CPUC continues to advocate for VoIP providers who obtain numbers directly from the NANPA to be subject to the same rules and authority, including authority delegated to the states, as other providers. Preserving state jurisdiction will give states the leverage to ensure that VoIP providers adequately manage numbering resources, comply with requests for data, and generally serve the public interest in their number utilization, as other providers are required to do. California also offers some suggestions here for new rules the FCC should consider as it

³ *In the Matter of SBC IP Communications, Inc. Petition for Limited waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Access to Numbering Resources*; CC Docket No. 99-200, CPUC Comments, April 5, 2005, pp. 3-4. The CPUC notes that the FCC has not yet resolved the regulatory status of VoIP or IP-enabled service providers.

expands the availability of the NANP to providers using new technologies, not contemplated when the current number rules were adopted.

Specifically, the FCC's current numbering rules mandate that only licensed facilities-based telecommunications service providers can obtain numbering resources directly from the NANP. Vonage is a nomadic VoIP provider which, at present, obtains telephone numbers through one or more certificated facilities-based telecommunications service providers. Accordingly, Vonage and other VoIP providers have petitioned the Commission for a waiver of the rules to allow VoIP providers direct access to numbering resources. To date, the only VoIP provider to have direct access to numbers from the NANPA is AT&T-IS, formerly SBCIS. As an example of the types of inefficiencies extant in the current numbering rules, in monitoring AT&T-IS' use of numbers, the CPUC has found that A&T-IS has been engaging in a practice which, while not a violation of the FCC's rules, has led to inefficiencies in the allocation of thousands of number in California. As discussed in more detail below, AT&T-IS obtains a location routing number (LRN) in many rate centers where acquisition of an LRN is not necessary, given that AT&T-IS is not a geographically-based service provider. The assignment of numerous LRNs requires concomitant assignment of thousands of numbers that remain unused, simply to support the allocation of the LRN.

III. DISCUSSION

Currently, with a few exceptions, all service providers operating in California and seeking to obtain numbers from the NANPA to provide service are required to have a license from the State of California to operate. This requirement ensures that states have

a certain leverage over these service providers which facilitates compliance with numbering rules, such as prompt submissions of utilization reports, limitations on holding of reserved numbers, and return of unused or underutilized numbering resources.

California routinely performs detailed analyses of service providers' utilization reports, and makes compliance requests of service providers who are retaining underutilized resources or engaging in other practices that are contrary to numbering rules.

Service providers do not voluntarily comply with California's requests, even though the numbering rules are clear. It is only the implied threat of regulatory action that inspires any level of cooperation by service providers because the CPUC has jurisdiction over their operations. California is concerned that allowing an unlicensed service provider, which maintains that it is not a telecommunications service provider and therefore not subject to the rules imposed on such service providers, would promote even more disregard for number conservation and the rules which promote number conservation.

The Commission has the ability to mitigate the effects of unlicensed providers' obtaining resources from the NANPA. California proposes several rule changes which would alleviate current problems and promote better number utilization. These proposals are as follows: 1) states be given the right to determine which rate centers are available to each VoIP provider; 2) VoIP providers be required to have a minimum of 75% utilization before obtaining additional number resources; 3) VoIP providers be required to expand number porting beyond rate center boundaries; and 4) all calls to VoIP

providers be deemed local. We will explain these recommendations in more detail below.

The numbering system, with its structure designed to accommodate legacy networks and regulatory network deployment, is extremely inefficient. California has been required to implement four new area codes since 2005, will be introducing another one in 2012, and expects to introduce a sixth new area code, augmenting numbers now served by the 415, in 2013. When a new area code is implemented in the geographic region now covered by the 415 area code, there will be thirty-two area codes in California. Although a new area code is necessary because all available prefixes have been assigned, it is also true that 45 to 50 percent of the line numbers within the prefixes in the 415 remain unassigned and thus are available to telecommunications consumers. The numbering inefficiencies in the 415 have been the case in the 408, 760, 818, 714 and 310 when new area codes were introduced in those areas. The inefficiency of having almost half of the numbers in an area code unused and the state still having to implement a new area code is a result of the current rate center, local access and transport areas (LATA), and area code structure which limits the use of numbers. Retention of this structure is important to legacy service providers but irrelevant to VoIP providers. California believes that the Commission should view this irrelevance as an opportunity to mitigate the inefficiencies of the current system and allow these providers the communications flexibility and ubiquity that their systems make possible.

The numbering system did not contemplate the introduction of new services such as VoIP and Google Voice. Adoption of these technologies, which in the case of Google

Voice, overlays additional telephone numbers over a set of devices, has accelerated the forecast exhaust of the 415 area code by four years, forcing the CPUC to begin the process to introduce a new area code at the end of 2012 rather than the end of 2016. The CPUC sees this effect as just the beginning of another round of new area code changes that will be required to accommodate this accelerated exhaust caused by demand from new services coupled with constraints in the way the numbering system currently is managed.

Below we explain our recommendations.

1. States to specify which rate centers available for assignment to VoIP providers

California proposes that states be given the right to determine which rate centers are available for VoIP number assignment and to limit VoIP provider number assignments to a single rate center within each local calling scope.⁴ California proposes this because of its experience with the one VoIP provider, AT&T-IS, which already is able to obtain numbers directly from the NANPA.

This service provider routinely requests numbering resources for Location Routing Numbers (LRN) – and therefore new central office codes – in rural, lightly-populated rate centers where the additional numbering resources are unlikely ever to be used. This is so because assigning an LRN requires the assigning of additional numbers associated with the LRN, and those additional number may never be assigned in turn to end-user customers. This repeated conduct has resulted in the stranding of tens of thousands of

⁴ “Local calling scope” refers to combinations of rate centers between which calls would have “local” calling status. This concept is an enhancement of the traditional “local calling area”.

numbers in California. One 2011 LRN request required a new code to be assigned to a rate center that had six codes already assigned and 44 blocks allocated to the pool for that prefix, thus adding an additional 9 blocks to the pool, making a total of 53 blocks in pooling. This rate center had fewer than 3000 assigned numbers at the time of the request for an additional 10,000 numbers to be added to the existing inventory of 60,000 numbers. This wasteful practice is unnecessary given that the service provider in question has no geographic limitations on the location of its numbering resources, and this waste could be eliminated if the CPUC were able to specify which rate centers are available for assignment to all VoIP providers.

2. Utilization threshold to be 75%

California also proposes that the utilization threshold for Vonage and other VoIP providers be the same as any other service provider obtaining numbers from the NANPA, 75%. Because they are not limited by geography, VoIP providers have a better ability to meet the 75% threshold than service providers who are constrained by rate center restrictions.

3. Expanded porting

California also proposes expanding the number porting requirement to and from the PSTN within the expanded local calling areas. To illustrate this point, a customer holding a VoIP number in the Oakland Main rate center should be able to port to a PSTN-based provider with a geographic location in any of the rate centers within Oakland Main's calling "local calling" scope such as Oakland Fruitvale, Oakland

Berkeley, or Oakland Alameda. Allowing for porting in this manner would reduce or even eliminate the need to assign numbers for each provider in each rate center.

California further proposes that VoIP providers ultimately be required to port numbers beyond rate center and local calling area boundaries. This expansion should begin with tandem homing areas, expand to area codes, then to states and eventually, nationwide. Expanded number porting could be, and should be, adopted by non-VoIP providers on a voluntary basis.

4. All Calls to VoIP Providers to be Local Calls

California also proposes that any VoIP number work as if it were in a nationwide area code overlay, making any call to that number a local call from any PSTN rate center. This would make the VoIP provider's rate center irrelevant and allow the utilization of the hundreds of thousands of numbers that are stranded in rate centers where they will never be, or are unlikely to be, assigned.

IV. CONCLUSION

California believes that for the FCC to allow VoIP providers access to public numbering resources without exercising its jurisdiction specifically tailored to the characteristics of VoIP providers receiving the numbers will exacerbate number exhaustion. Since VoIP providers do not depend on the legacy geographic basis for number assignment, allowing VoIP providers direct access to telephone numbers offers an opportunity to at least in part, eliminate a structure which makes number utilization inefficient and is becoming more and more outdated. California urges the Commission to implement these few innovative changes that are consistent with the dramatically

different nature of the service VoIP providers offer, and which make their service particularly attractive to many customers.

Respectfully submitted,

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