



N A R U C
National Association of Regulatory Utility Commissioners

NOTICE VIA ELECTRONIC FILING

May 8, 2013

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: *Notice of Oral Ex Parte filed in the proceedings captioned:*

Numbering Policies for Modern Communications, WC Docket No. 13-97; IP-Enabled Services, WC Docket No. 04-36; Telephone Number Requirements for IP-Enabled Service Providers, WC Docket No. 07-243; Telephone Number Portability, CC Docket No. 95-116; Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Connect America Fund; WC Docket No. 10-90; Numbering Resource Optimization, CC Docket No. 99-200; Petition of Vonage Holdings Corp. for Limited Waiver of Sec. 52.15(g)(2)(i) of the Commission's Rules Regarding Access to Numbering Resources; Petition of Telecommunication Systems, Inc. and HBF Group, Inc. for Waiver of Part 52 of the Commission's Rules.

Secretary Dortch:

Unlike our federal counterparts, State Commissions receive voluminous and direct feedback on specific area code/NPA exhausts from the public. NARUC and the States presented a fairly unified front for several years pointing out that including this "trial" in any proposed rulemaking – on its face prejudices several crucial issues. However, NARUC's opposition did not prevent the FCC from prematurely proceeding to this series of "trials."

The State Call Group ("SCG") is comprised of numbering personnel from State commissions across the country. Members of the SCG were surprised and, in many cases, concerned by our federal colleague's decision and have questions about the proposed trials. They asked the FCC staff to participate in a call to discuss their questions and concerns.

The FCC staff, via the leadership of WCB Chief Julie Veach, graciously made a number of key staffers available for this discussion which was held on May 8, 2013. Attending the call from the FCC – Lisa Gelb, Deputy Chief, Wireline Competition Bureau, William (Bill) Dever, Chief, Competition Policy Division (CPD), Ann Stevens, Deputy Chief, CPD, Sanford Williams, Special Counsel for Numbering Administration, CPD, and Marilyn Jones, Attorney-Advisor, CPD. The SCG and the undersigned genuinely appreciate this outreach. As staff, we all understand - perhaps better than most - the time, resource, and "directive" constraints that our federal staff counterparts face daily.

In anticipation of this call, the SCG compiled a preliminary list of concerns about the VoIP numbering trial which was provided to the FCC via e-mail. I have attached a copy of the list of questions to this ex parte

IMPORTANT CAVEAT: The questions and positions raised on this conference call reflects individual State Commission expert numbering staff concerns. It does not reflect the formal position of any State commission and certainly not the positions of the National Association of Regulatory Utility Commissioners. NARUC's counsel, who was also on the call to take notes for any needed ex parte, has agreed to file this ex parte as an accommodation to the SCG. The characterization of NARUC's prior advocacy concerning the unavoidable pre-judgment inherent in how the FCC has chosen to proceed is of course a formal NARUC position reflected in numerous places in the record of this proceeding.

During the call, it was pointed out that several States NPA exhaustion forecasts recently took a big hit. A staffer in one state queried a CLEC about a recent numbering request and was told it had obtained the equivalent of nearly 10 NXX codes for Vonage in one day. The CLEC indicated that similar requests had been made on behalf of Vonage in several other States during a two week period. Another staffer pointed out that the FCC needs to be aware of the fact that how carriers characterize intermediate numbers is all over the map and needs to be formalized. The CA Commission has previously offered a suggestion on fixing the intermediate number problems to the NANC which was forwarded to the full Commission several years ago. The rest of the call was focused on FCC general descriptions of how the trials will be conducted.

In the attached SCG questions/concerns document provided to the FCC in advance of the conference call, the following advocacy points were made:

1. States currently have access to important numbering databases (NAS, PAS, LERG) that provide tools necessary for States to effectively monitor number use and ensure compliance with the number optimization standards. This cooperative effort involving the FCC and industry, has unquestionably slowed the rate of area code exhaust across the country. It is imperative that States be given access to the NPAC in order to verify the accuracy of the Part 1s submitted by VoIP trial participants.
2. The duration of the test seems too short given the amount of time needed to activate new codes for LRN purposes;
3. The scope of the trial will not allow most States to have any real world experience dealing with the VoIP carriers directly;
4. VoIP 'carriers' number assignment practices allow an end user to select numbers from any exchange area without any regard for where the end user is actually located or will actually interconnect with the PSTN for call origination and termination – which the order implies will not be allowed and should not be allowed; and
5. States need a comprehensive list of which LECs (or other numbering partners) the VoIP providers are currently getting the numbers from in each State.

Attending the call from the SCG – from Alaska, Jess Manaois, from Alabama, Doug Dillard, from California, Helen Mickiewicz, Anna Jew, and Katherine Morehouse, from Colorado, Susan Travis, from the District of Columbia, Carey Hinton, from Idaho, Carolee Hall, from Maine, Rich Kania, from Michigan, Susana Woolcock and Josh McConkie, from North Carolina, Switson Wigfall, from Nebraska, Gene Hand and Don Gray, from Ohio, James Drummond and Melissa Scarberry, from Oregon, Bruce Hellebuyck, Shelly Jones and Steve Hayes, from Pennsylvania, Deb Sagerer, from Virginia, Chris Harris, from Washington State, Rebecca Beaton and William Weinman, and from Wisconsin, Kathy Bakke, Gary Everson, and Joyce Dingman.

As required by Section 1.1206(b), this *ex parte* notification is being filed electronically for inclusion in the public record of the above-referenced proceedings. I have made a good faith effort to cover all of the arguments raised during these conversations. *I am copying one or more of the participants in the contacts to assure that the notice is adequate. If any of those that participated in the designated conversations believes the notice is incomplete in any particular, upon being contacted I will immediately amend this notice to cover any oversight.* If you have any questions or require additional information, please do not hesitate to contact me at 202.898.2207.

Respectfully Submitted,

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cc *Dave Grimaldi, Chief of Staff, Office of FCC Chair Clyburn*
Rebekah Goodheart, Acting Wireline Advisor to FCC Chair Clyburn
Julie Veach, Wireline Competition Bureau Chief
Lisa Gelb, Deputy Chief, Wireline Competition Bureau
William Dever, Chief, Competition Policy Division (CPD), Wireline Competition Bureau
Ann Stevens, Deputy Chief, CPD, Wireline Competition Bureau
Sanford Williams, Special Counsel for Numbering Administration, CPD, Wireline Competition Bureau
Marilyn Jones, Attorney-Advisor, CPD, Wireline Competition Bureau

APPENDIX A – SCG WRITTEN QUESTIONS/CONCERNS PROVIDED TO THE FCC MAY 7, 2013 IN ANTICIPATION OF THE CONFERENCE CALL

The State Call Group (“SCG”) is comprised of numbering personnel from State commissions across the country. In anticipation of this call, the SCG compiled a preliminary list of concerns about the VoIP numbering trial. Although several States reviewed this document, the short time frame did not allow all SCG members to participate. There will be additional questions during the call. IMPT NOTE: This document reflects State staff concerns. It does not reflect the formal position of any State PUC. The questions and/or concerns identified by the SCG include the following:

1. Vonage¹ has a variety of numbering partners today and there is no accurate means of determining how many telephone numbers are currently at its disposal; how will the FCC determine how many telephone numbers Vonage will be allowed to obtain directly from NANPA or the PA? (¶ 88)
2. If during the trial Vonage is allowed to port blocks of telephone numbers from its numbering partners instead of transferring *all* numbering resources from its partners OCN to its own, how will the FCC, the PA or State commissions be able to verify the accuracy of MTE or utilization data? (¶ 88)
3. Will the monthly reports be filed with State commissions at the same time they are filed with the FCC? If not, when will the reports be made public and available to the States? (¶ 88, ¶103)
4. Under what circumstances would a VoIP provider participating in the numbering trial be required to return resources to a numbering partner? (¶ 88)
5. What constitutes a “red-lighted” proposal? (¶ 89)
6. What criteria will be used to approve or reject a proposal? (¶ 89)
7. During the trial, will Vonage be prohibited from acquiring numbering resources directly from the PA on behalf of other VoIP providers? If so, how will this be tracked and verified during the trial? (FN 249)
8. Vonage’s CLEC partners currently transfer full blocks of unassigned numbers via the porting process. In light of this practice, what does “reassigned from Vonage’s CLEC partners” actually mean? Will this be done via the porting process or will resources be transferred from a partner’s OCN to Vonage’s OCN? (¶ 100)
9. How will these already ported-in numbers be accounted for when the FCC determines “the quantity of numbers proportionate to their (i.e. Vonage’s) overall scale”?
10. How will the “geographic scope” of this numbering trial be determined? (¶ 100)
11. How does the FCC intend to accurately determine the total quantity of telephone numbers that Vonage has already acquired through its various numbering partners? (¶ 100)
12. Will the “relevant State commission” have a voice in the review and approval process when Vonage’s proposal is filed? (¶ 101)

¹ Although Vonage is the company specifically referenced in this document, the questions and/or concerns identified here would apply equally to all VoIP providers which are currently eligible to participate the FCC’s numbering trial.

13. Will the FCC continue to monitor Vonage to ensure that all reporting obligations are satisfied (ex: bi-annual NRUF) even after the trial ends? (§ 102)
14. How is "inventory" defined? Does it include ALL numbers at Vonage's disposal or simply those obtained during the numbering trial? (§106)
15. Is there a means for state commission to immediately report problems or concerns directly to the FCC during the trial?
16. {Regarding additional condition #2 which states in part "consolidate and report all numbers under its own unique Operating Company Number"} Ignoring the existing porting in process used to transfer blocks between numbering partners and Vonage, and the impact this process has on Vonage's overall inventory, seems to undermine the intent of this condition. How does the FCC intend to verify that ALL blocks of numbers previously transferred to Vonage via the porting process are actually transferred from the partner's OCN to Vonage's? (§107)
17. Will there be strictly enforced limits on what resources Vonage can obtain from numbering partners during the trial?
18. How will numbers acquired via numbering partners be considered in MTE and the 65% utilization rate Vonage agreed to maintain?
19. Currently, states have access to some important numbering databases (NAS, PAS, LERG) that have provided the necessary tools for the states to effectively monitor numbering matters and ensure compliance with the FCC's number optimization standards. The work done by state commissions, in partnership with the FCC and Industry, has had a tremendous impact on slowing down the rate of area code relief projects across the country. In light of this trial and the existing process of transferring full unassigned blocks of numbers via the porting process, **it is imperative that states be given access to the NPAC** in order to verify the accuracy of the Part 1s submitted by VoIP trial participants. When can the states expect to have access to this final database tool?
20. Will VoIP carriers be responsible for intercarrier compensation at access and reciprocal compensation rates for originating and terminating traffic on the same basis as LECs or as CMDS carriers (inter and intra MTA)? The areas for reciprocal compensation rates are drastically different.
27. Concerns: [a] The duration of the test seems too short given the amount of time needed to activate new codes for LRN purposes; [b] The scope of the trial will not allow most States to have any real world experience dealing with the VoIP carriers directly; [c] VoIP 'carriers' number assignment practices allow an end user to select numbers from any exchange area without any regard for where the end user is actually located or will actually interconnect with the PSTN for call origination and termination – which the order implies will not be allowed(?) – how is the FCC handling this(?); and [d] States need a comprehensive list of which LECs (or other numbering partners) the VoIP providers are currently getting the numbers from in each State.