

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Numbering Policies for Modern Communications	)	WC Docket No. 13-97
	)	
IP-Enabled Services	)	WC Docket No. 04-36
	)	
Telephone Number Requirements for IP-Enabled Services 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 Section 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	)	

**JOINT COMMENTS OF THE PUBLIC SERVICE COMMISSION OF WISCONSIN,  
THE OREGON PUBLIC UTILITY COMMISSION, THE IDAHO PUBLIC UTILITIES  
COMMISSION, THE NEBRASKA PUBLIC SERVICE COMMISSION AND THE  
MINNESOTA DEPARTMENT OF COMMERCE**

The Public Service Commission of Wisconsin (PSCW), the Oregon Public Utility Commission (OPUC), the Idaho Public Utilities Commission (IPUC), the Nebraska Public Service Commission (NPSC) and the Minnesota Department of Commerce (MNDC) (Joint Commenters) respectfully present these joint comments on the Notice of Proposed Rulemaking,

Order and Notice of Inquiry (NPRM/NOI) released on April 18, 2013, by the Federal Communications Commission (Commission). In this proceeding, the Commission seeks input on its proposal to allow direct access to telephone numbers by Voice over Internet Protocol (VoIP) providers and on “a range of issues regarding our long-term approach to numbering resources.”<sup>1</sup>

Last year, many states filed comments in response to the Commission’s Public Notice<sup>2</sup> to refresh the record on several petitions seeking a limited waiver of Commission rules to allow certain VoIP providers to have direct access to numbering resources from the North American Numbering Plan Administrator (NANPA) and the Pooling Administrator (PA). In the comments filed by the PSCW<sup>3</sup> (and supported by both the IPUC and the NPSC), the PSCW did not object to the premise of these providers having direct access to numbering resources as long as the VoIP providers were subject to all of the obligations currently imposed on traditional carriers. Specifically, the PSCW encouraged the Commission to impose on the petitioning VoIP providers its numbering utilization and optimization requirements and the obligation to comply with all applicable industry guidelines and practices as well as the numbering authority delegated to the states.<sup>4</sup>

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<sup>1</sup> Notice of Proposed Rulemaking, Order and Notice of Inquiry, *In the Matter of Numbering Policies for Modern Communications*, 28 F.C.C.R. 5842, 5844, ¶ 4 (2013) (NPRM/NOI).

<sup>2</sup> Public Notice, *Wireline Competition Bureau Seeks to Refresh Record on Petitions for Waiver of Commission’s Rules Regarding Access to Numbering Resources*, 26 F.C.C.R. 17,039 (2011).

<sup>3</sup> Comments of the Public Service Commission of Wisconsin, (January 25, 2012), *In the Matter of Number Resource Optimization*, Public Notice, CC Docket No. 99-200, DA 11-2074 (December 27, 2011).

<sup>4</sup> Additionally, the PSCW suggested that the Commission require interconnected VoIP providers to provide the relevant state commission with regulatory and numbering contact information upon first requesting numbers in that state; consolidate and report all numbers previously acquired through a numbering partner under its own unique Operating Company Number (OCN); provide customers with the ability to access all N11 numbers in use in a state; and maintain the original rate center designation of all numbers in its inventory.

## Introduction

The Commission opened this NPRM/NOI with this statement: “Telephone numbers are a valuable and limited resource; access to and use of numbers must be managed judiciously to ensure that they are available as needed and to protect the efficient and reliable operation of the telephone network.”<sup>5</sup> The Joint Commenters concur and suggest that this perspective guide any Commission decisions regarding the requirements for VoIP providers’ direct access to numbering resources as well as the broader consideration of future approaches to number administration. Past Commission numbering decisions and the development of industry guidelines through various numbering-focused organizations<sup>6</sup> have generally been grounded on the tenet that telephone numbers are finite and that these valuable resources should be used as efficiently as possible. Likewise, the numbering work done by state commissions—such as the daily review of numbering requests, the processing of safety valve petitions, the administration of pooling and Local Number Portability (LNP) activities, the monitoring of the semi-annual NRUF<sup>7</sup> filings, and area code relief investigations—is also done to assure the continued availability of these limited resources. Thus, the Joint Commenters urge the Commission to “stay the course” by considering any and all numbering administration decisions within this overriding perspective on number management. The transition of technologies and the goals of “promoting innovation, investment, and competition for the ultimate benefit of consumers and businesses”<sup>8</sup> in no way necessitate actions to bypass, or to diminish adherence to, this long-held but still relevant rubric about the importance of effective number management.

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<sup>5</sup> *NPRM/NOI*, 28 F.C.C.R. at 5843, ¶ 1.

<sup>6</sup> Such as the North American Numbering Plan Administrator (NANPA), the Pooling Administrator (PA), the North American Numbering Council (NANC) and the Alliance for Telecommunications Industry Solutions (ATIS).

<sup>7</sup> NRUF refers to the semi-annual “Numbering Resource Utilization Forecast” which providers are required to file with the NANPA each February and August.

<sup>8</sup> *NPRM/NOI*, 28 F.C.C.R. at 5843-44, ¶ 1.

## The Issues

For many years, effective number administration has been the result of the collaborative efforts of the Commission, the states exercising delegated numbering authority, the NANPA and PA, as well as the telecommunications providers. These efforts have significantly improved the forecasted lives of the North American Numbering Plan (NANP) and many area codes across the country.

The Joint Commenters take their delegated numbering authority seriously and have actively worked with providers in their states to ensure that limited numbering resources are used as efficiently as possible. Using Wisconsin as an example, this cooperative effort has contributed to overall stability of its area codes.<sup>9</sup> However, this trend may be starting to change. The April 2013 area code forecasts revealed that despite the PSCW's diligent number conservation efforts, three Wisconsin area codes experienced significant changes in the preceding six months: Wisconsin lost 23 quarters in the forecasted life of the 262 area code, 50 quarters in the forecast life of the 414 area code and 12 quarters in the forecasted life of the 608 area code. NANPA speculated that these changes are most likely due to the growing demand for numbers for machine-to-machine applications (M2M), new providers establishing footprints in Wisconsin and a general increased demand during a slowly-recovering economy. If this trend continues, it is possible that Wisconsin will have four area codes exhausting within two years of

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<sup>9</sup> For example, in Wisconsin, PSCW staff has worked directly with Industry to expand voluntary pooling efforts throughout the state and to implement mandatory pooling in the 715 and 920 area codes. Since pooling was first implemented in Wisconsin, hundreds of central office codes (NXX) have been saved. As of July 1, 2013, the PA estimated that pooling has saved the assignment of 267 NXX codes in the 262 area code, 38 NXX codes in the 414 area code, 212 NXX codes in the 534/715 area codes, 169 NXX codes in the 608 area code and 346 NXX codes in the 920 area code (see [http://www.nationalpooling.com/Reports/ Pooling Matrices CDRL 4.6.3.1](http://www.nationalpooling.com/Reports/Pooling%20Matrices%20CDRL%204.6.3.1)). These efforts have undoubtedly had a positive impact on the forecasted life of these area codes.

each other.<sup>10</sup> Many other states are also starting to see similar changes in their area code forecasts.

While this proceeding to examine the important policies and processes on number administration is a significant undertaking, it is important that the Commission not lose sight of the direct impact that new technologies (including VoIP) are already having on some area codes across the country and the critical role that states continue to play in monitoring the local numbering landscape. Diligent oversight is still needed to ensure that telephone numbers are readily available where and when providers need them and to forestall the need for area code relief efforts as long as possible, thus avoiding the disruption, inconvenience and cost that often comes with the introduction of a new area code. A system that treats all providers the same from a number administration perspective and that gives states access to all of the tools needed to effectively monitor providers and their numbering demands is essential.

The Commission should also take this opportunity to strengthen the existing federal-state numbering partnership by establishing an electronic referral process to facilitate a state's ability to refer its concerns and supporting data to the Commission for review, and to establish a clear process and timeline for responding to these state referrals.

Rather than responding specifically to each of the important questions raised by the Commission in this proceeding, the Joint Commenters offer these comments on the following subjects:

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<sup>10</sup> The pending overlay in Wisconsin's 920 area code is not related to the April 2013 forecasts. When the docket to investigate area code relief options for the 920 area code was first opened in June 2007, the anticipated exhaust date was the second quarter of 2010. However, by the time the PSCW's overlay order was issued in December 2008, the anticipated exhaust date had already moved out two years. Since then, the forecasted exhaust date of the 920 area code has been extended several times due to the various number conservation measures implemented in Wisconsin and a lingering sluggish economy.

## **Required Documentation**

All providers, regardless of the underlying technology used to serve end-users, should be held to the same numbering requirements. VoIP providers should not have direct access to numbering resources without being subject to all of the same obligations imposed on other providers. To effectively monitor local numbering matters and to exercise delegated numbering authority, it is vital for states to have access to accurate contact information for all types of providers, including VoIP. Many states obtain this contact information from providers during the certification process. However, in the absence of a state certification,<sup>11</sup> a VoIP provider should be required to “register” its contact information with the relevant state commission prior to requesting numbering resources for that state. This request is for simple ministerial efficiency. Without access to this information it will become increasingly difficult for the states to successfully work with Industry to engage in local number optimization efforts.

In addition to accurate contact information, VoIP providers should be required to provide the states with an overview of the retail services that will be offered to state residents with the requested numbering resources.<sup>12</sup> If a VoIP provider has not filed this information, or the original information provided is no longer valid, states should have the ability to direct the PA to hold the request for numbering resources until the VoIP provider has complied with this requirement.

## **Access to Numbering Resources in Pooling vs. Non-Pooling Rate Centers**

The positive impact that pooling has had on extending the forecasted life of the NANP, as well as individual area codes, is well documented. The time is right to implement mandatory pooling in the all rate centers across the country. If this were done now, significant numbering

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<sup>11</sup> Certification of VoIP providers is not required in some states.

<sup>12</sup> This background information will help identify issues that could arise relative to pooling or porting matters.

resources would be recovered, utilization rates within rate centers and area codes would likely improve and any concerns regarding VoIP access to numbers in non-pooling rate centers would be moot.

For example, while implementing mandatory pooling in Wisconsin's 715 and 920 area codes,<sup>13</sup> the PSCW found that most providers had thousand-number blocks that were eligible for donation. Although mandatory pooling immediately replenished the available numbers in dozens of rate centers throughout those areas,<sup>14</sup> this optimization effort also illustrated the direct impact that unnecessary code assignments has had on stranding thousands of numbers in many rural Wisconsin rate centers.<sup>15</sup>

If the Commission is reluctant to expand pooling at this time, the Joint Commenters agree with some earlier comments of the California Public Utilities Commission.<sup>16</sup> Since many VoIP providers currently assign telephone numbers without regard to the specific geographic rate center in which the customer is actually located, there is value in limiting VoIP location routing

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<sup>13</sup> In August 2007, the Commission granted Wisconsin's petition to implement mandatory pooling in the 715 and 920 area codes. Order, In the Matter of Numbering Resource Optimization, 22 F.C.C.R. 16081 (2007). On December 20, 2007, the PSCW ordered the implementation of mandatory pooling in these areas and directed that it be completed by May 1, 2008. Final Decision, *The Implementation of Mandatory Thousands-Block Pooling in the 715 and 920 Area Codes in Wisconsin*, docket 5-TN-109 (Wis. PSC Dec. 21, 2007). (PSC REF#: 87734.)

<sup>14</sup> The PSCW's mandatory pooling order directed the PA to file reports with the PSCW regarding donation activities in the 715 and 920 area codes. The PA filed its first donation report with the Commission on June 24, 2008, which summarized the donations made from December 21, 2007, to June 1, 2008. During that time period, industry donated 759 thousand-number blocks to pools throughout the 715 area code. These figures are impressive in light of the fact that 118 of the 253 rate centers in the 715 area code were considered a single service provider rate center and temporarily excluded from mandatory pooling. During the same timeframe, industry donated 365 thousand-number blocks to pools throughout the 920 area code.

<sup>15</sup> As of July 2, 2013, there were 2,548 blocks available for assignment in the 715 area code, with a projected demand of 137 blocks needed during the next 6 months. There were at least 90 rural rate centers that had an inventory in excess of ten thousand-number blocks. In the 920 area code, there were 1,842 blocks available for assignment with a projected demand of 136 blocks needed during the next six months. There were approximately 70 rural rate centers with inventories in excess of ten thousand-number blocks. (See [http://www.nationalpooling.com/Reports/Pool Tracking Report](http://www.nationalpooling.com/Reports/Pool%20Tracking%20Report)).

<sup>16</sup> Comments of the California Public Utilities Commission and the People of the State of California (January 25, 2012) in *Wireline Competition Bureau Seeks to Refresh Record on Petitions for Waiver of Commission's Rules Regarding Access to Numbering Resources*, 26 F.C.C.R. 17,039 (2011).

number (LRN)<sup>17</sup> and general telephone number assignments to mandatory pooling rate centers in more urban areas. This restriction would allow for the most efficient use of any unneeded blocks after the LRN assignment is made and may reduce the quantity of potentially stranded numbers.

### **Reporting Obligations and Intermediate Numbers**

VoIP direct access to numbering resources creates unique reporting challenges because many of these providers may already have access to an extensive inventory of numbers previously obtained through various numbering partners. Under these circumstances, state commissions have a very limited ability to ascertain a provider's true inventory of numbers or its actual utilization rate.

Currently, providers are obligated to file utilization and forecast data bi-annually. Future VoIP reporting will be meaningless unless these providers are required to report on *all* resources at their disposal, not just those obtained directly from the NANPA or PA. The numbers previously obtained through a numbering partner should be transferred from the partner's OCN to the VoIP OCN for reporting purposes. Further, once a VoIP provider has its own OCN, and has elected to obtain numbers directly from NANPA or the PA, it should no longer have the ability to simultaneously obtain numbers through a numbering partner. This condition would ensure more accurate NRUF reporting and minimize a VoIP provider's opportunity to hoard telephone numbers.

There are currently six NRUF reporting categories. An "assigned number" is a telephone number that is currently in service for an end-user customer. "Intermediate numbers" are numbers that one carrier has made available to another carrier (or to a non-carrier) for eventual

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<sup>17</sup> A location routing number (or LRN) is a 10-digit number in the format of NPA-NXX-XXXX, which uniquely identifies a provider's switch or point of interconnection in each LATA. The NPA-NXX portion of the LRN is used to accurately route calls to telephone numbers that have been ported.

assignment to an end user. “Reserved numbers” are those numbers on hold at the request of a specific end user for future use. “Aging numbers” are those resources held out of use by a provider for a period of time after the most recent customer has disconnected service. “Administrative numbers” include test numbers and other numbers used for network purposes. “Available numbers” are those resources that are generally available for assignment to customers.<sup>18</sup>

While the Joint Commenters agree that NRUF data is a critical component in their ability to effectively exercise delegated numbering authority, there are certain shortcomings with the current reporting system. For example, the NRUF does not include any carrier specific data on ported numbers. Instead, “ported out” numbers are included in the original provider’s assigned number count. This practice skews the reporting provider’s NRUF data because it includes numbers in service for its own customers as well as those numbers in use by other providers’ customers. This makes it difficult for states to determine the actual number of subscribers that a provider has within a specific rate center, within an area code or even within the state. As porting has become commonplace, this practice has dramatically impacted the overall accuracy of a provider’s NRUF data. The Commission should consider establishing a separate NRUF reporting category to capture carrier-specific porting data.

Additionally, there are significant inconsistencies with how intermediate numbers are reported. Some numbering partners routinely transfer large quantities of inactive numbers to clients via the Number Portability Administration Center (NPAC). These numbers are often reported as fully assigned, not as intermediate, even though these numbers were not in service for a retail end-user at the time of the transfer. Again, this practice diminishes the accuracy of NRUF data and makes it impossible for the Commission or states to have a clear picture of how

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<sup>18</sup> For exact definitions of these categories, *see* 47 C.F.R. § 52.15.

and where these numbers are being used. The Joint Commenters firmly believe that inactive numbers that are transferred to another provider via the NPAC should be classified as “intermediate,” not “assigned.” Further, the providers receiving these numbering resources should always be identified by the reporting provider.

When the Commission first gave states access to utilization and forecast data it stated, “We find that the states have legitimate reasons for obtaining disaggregated, carrier-specific data. The states are responsible for NPA<sup>19</sup> relief decisions and other delegated numbering issues. Such decisions must be based on specific utilization data.”<sup>20</sup> The Commission also said, “We find that the value to state commissions of access to these data outweighs the confidentiality concerns expressed by carriers required to submit forecast and utilization data to the NANPA.”<sup>21</sup> Since the states have had access to this data, there has been no known release of this information to the public or to competitors, nor has any objection been raised regarding breach of the confidential nature of this data. For the same reasons that the Commission first gave states access to NRUF data, it is equally important that states that have received and acted on delegated numbering authority now be granted access to the porting data retained in the NPAC. Without access to this porting data, states simply do not have all of the information needed to efficiently exercise delegated number authority. Access to the NPAC would also help states confirm proper NRUF reporting of these numbering resources.

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<sup>19</sup> An NPA, or Numbering Plan Area, is another term for an area code.

<sup>20</sup> Report and Order and Further Notice of Proposed Rulemaking, *In the Matter of Numbering Resource Optimization*, 15 F.C.C.R. 7574, 7606, ¶ 75 (2000).

<sup>21</sup> *Id.*, at 7608, ¶ 81.

## Vonage Commitments

As noted in the NOI/NPRM, Vonage agreed to adhere to the same conditions originally imposed on SBC Internet Service (SBCIS),<sup>22</sup> and later offered other commitments that could serve as additional conditions if the Commission were to grant its waiver request. Specifically, Vonage offered to: (1) maintain at least a 65 percent number utilization rate across its telephone number inventory; (2) offer IP interconnection to other carriers and service providers; (3) comply with the Commission's number administration requirements and ensure appropriate telephone number management; and (4) provide the Commission with a migration plan for its transition to direct access to numbers within 90 days of commencing the migration, and every 90 days thereafter for 18 months.<sup>23</sup>

The Joint Commenters believe that Vonage's offers are meaningless if the Commission and states do not have access to the information necessary to verify compliance. Since there is currently no requirement that Vonage file NRUF data on all of the numbers it has obtained through various numbering partners, there is seemingly no reliable mechanism in place to verify Vonage's ability to maintain "at least 65 percent number utilization across its telephone number inventory." If VoIP providers that elect to obtain numbers directly from the NANPA and PA are still allowed to acquire numbers through various numbering partners, these significant verification challenges will escalate over time.

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<sup>22</sup> On February 1, 2005, the Commission granted SBCIS's waiver request for direct access to NANP subject to the following conditions: (1) SBCIS is required to comply with the Commission's numbering utilization and optimization requirements, numbering authority delegated to the states, and industry guidelines and practices, including filing the Numbering Resource Utilization and Forecast (NRUF) Report, (2) SBCIS is required to file requests for numbers with the Commission and the relevant state commission at least 30 days before requesting numbers from the number administrators, (3) SBCIS is required to comply with the "facilities readiness" requirement as set forth in section 52.15(g)(2)(ii) of the rules, and (4) SBCIS is responsible for processing port requests directly rather than going through a LEC. Order, *In the Matter of the Administration of the North American Numbering Plan*, 20 F.C.C.R. 2957, 2961-62, ¶ 7-10 (2005) (*SBCIS Waiver Order*).

<sup>23</sup> *NPRM/NOI*, 28 F.C.C.R. at 5859, ¶ 32.

## **Local Number Portability**

Local number portability (LNP) allows residential and business customers to retain, at the same location, their existing local telephone numbers when changing from one service provider to another. The retail porting process has improved dramatically in recent years and in many states, commissions rarely find problems among traditional providers. However, VoIP porting remains challenging for many customers. Typical problems include: (1) VoIP assignment of numbers from a foreign rate center which ultimately prevents the customer from later porting their number to a facilities-based provider and (2) VoIP providers not submitting the customer's LNP request to their numbering partner for processing. Instead, the customer is required to accept a "temporary" number that eventually becomes permanent because the customer's existing telephone number is never ported. It appears that these non-geographic number assignments to retail customers may be a means for some VoIP providers to avoid their porting obligations, making it far more difficult (and unlikely) that a customer will pursue other competitive options.

The ability to port an existing telephone number is critical to most customers, and all providers involved in the porting process must "play nice" to ensure a smooth transition for the customer. When problems do arise, all providers in the porting sequence must be accountable, identifiable and responsive to complaints. For this reason, it is critical for states to have access to a responsible person(s) within the VoIP organization that can investigate and resolve LNP issues. Further, having access to the NPAC data would help states facilitate a successful resolution to reported porting problems within its jurisdiction.

## Parity

There needs to be a level playing field for access to and use of numbering resources for all participants—including VOIP providers. The numbering rules must be applied on a technology neutral basis so that providers using a certain technology to serve customers are not given an unfair competitive advantage. A provider should succeed or fail based on the quality of the service that it provides and the price charged for that service, not because different numbering standards favor one technology over another.

As VoIP services have become a replacement for traditional carrier services, customers reasonably expect to have comparable basic services, including access to all active N11 abbreviated (3-digit) dialing arrangements<sup>24</sup> and basic consumer protections. The Commission has consistently acknowledged that N11 abbreviated dialing codes<sup>25</sup> are a scarce and valuable numbering resource, and it has been careful to ensure that all N11 assignments provide significant benefit to all users. The Commission has already imposed 911 obligations on VoIP providers,<sup>26</sup> and it is reasonable to require VoIP providers to provide access to the other N11 codes as well. The Commission should take this action to ensure that these vitally important services remain accessible to all customers, even those customers using a VoIP technology to meet their telecommunications needs. This would preserve the inherent value of the N11 abbreviated dialing codes as the nation transitions to an IP-based network.

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<sup>24</sup> The applicability of N11 dialing obligations would depend on which N11 arrangements have been implemented in individual states.

<sup>25</sup> Such as “211” for access to information and referral services, “511” for transportation services, and “911” for emergency services.

<sup>26</sup> First Report and Order and Notice of Proposed Rulemaking, *In the Matters of IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, 20 F.C.C.R. 10245 (2005).

## **Enforcement**

Again, the Commission should not contemplate a regulatory scheme that creates disparate numbering obligations based on the type of provider requesting the numbering resources. The conditions for direct access to numbering resources, and the consequences for not complying with these requirements, need to be the same for all providers on a technology neutral basis. VoIP providers should not enjoy the benefits of direct access to numbering resources without the same obligations that are imposed on all other carriers. VoIP providers that are concerned with their ability to comply with these requirements would continue to have the option of obtaining numbers from a responsible numbering partner.

## **Conclusion**

In this proceeding, the Commission has raised the right issues and has asked the critical questions. The NPRM/NOI is both broad— in the scope of issues that need to be addressed— and deep—in terms of its importance to so many other aspects of communications. To assure adequate service, to promote competition, to maintain a level playing field for all providers, and to protect consumers, telephone numbering resources must be monitored, preserved and uniformly administered on a technology neutral basis. Actions that would bypass reasoned, purposeful and effective numbering obligations for certain types of technologies will dilute the efficacy of the number administration mechanisms already in place. Uniform numbering requirements for all providers better protects consumers and enhances the ability of states to exercise delegated numbering authority.

As stated earlier, a system that treats all providers the same from a numbering administration perspective and that gives states access to all of the tools needed to effectively monitor providers and their numbering demands is essential. If the Commission believes the

opening sentence to its NPRM/NOI, then it must act to impose uniform numbering obligations on all providers (regardless of technology or platform), and it must ensure that the states (or the Commission itself) have access to all of the monitoring and enforcement tools needed to effectively and properly oversee the North American Numbering Plan, to verify the usage of and demands for telephone numbers by providers, and to investigate reasons for and solutions to number-related issues that arise and can impact competition and consumers.

Dated at Madison, Wisconsin, this 19th day of July, 2013.

*By the Public Service Commission of Wisconsin:*

A handwritten signature in black ink, appearing to read 'S. Paske', with a small 'bar' written below the end of the signature.

Sandra J. Paske  
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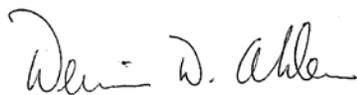
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