

**Before the  
Federal Communications Commission  
Washington, D.C. 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 Service providers	)	WC Docket No. 07-243
	)	
Telephone Number Portability	)	WC Docket No. 95-116
	)	
Developing a Unified Intercarrier Compensation Regime	)	WC Docket No. 01-92
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Numbering Resource Optimization	)	WC 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	)	
	)	
Reliability and Continuity of Communications Networks, Including Broadband Technologies	)	

**JOINT COMMENTS OF  
PENNSYLVANIA, NEW YORK, AND INDIANA**

The Pennsylvania Public Utility Commission (Pa. PUC), the New York Public Service Commission (NY PSC), and the Indiana Utility Regulatory Commission (IURC) (hereinafter collectively referred to as “State Commissions”), file these Joint Comments with the Federal Communications Commission (FCC or Commission) in the above-captioned dockets in response to the FCC Notice of Proposed Rulemaking issued April 18, 2013, addressing direct access to numbering resources by Voice over Internet Protocol (VoIP) service providers (the VoIP NPRM).<sup>1</sup> The VoIP NPRM seeks input on a range of issues regarding the long-term approach to numbering resources, especially VoIP providers. The VoIP NPRM sets deadlines of July 19, 2013, and August 19, 2013, respectively, for filing Comments and Replies.

The State Commissions appreciate an opportunity to file Comments. As an initial matter, these Joint Comments should not be construed as binding on the individual states in any matter pending before their respective utility regulatory commissions. Moreover, these Joint Comments could change in response to later events, including Ex Parte filings or the review of other filed Initial and Reply Comments and legal or regulatory developments at the state or federal level. Finally, the participation of the State Commissions in this proceeding is without prejudice to the ongoing appellate litigation that is currently pending between the states’ individual commissions, other parties, and

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<sup>1</sup> *In re Numbering Policies for Modern Communications, et al.*, WC Docket No. 13-97 *et al.*, (FCC, Rel. April 18, 2013), Notice of Proposed Rulemaking, Order and Notice of Inquiry, FCC 13-51.

the FCC before the U.S. Court of Appeals for the 10<sup>th</sup> Circuit at Docket Nos. 10-1099, *et seq.*

### **Summary of the Joint Comments**

*Uniform Standards.* The FCC must impose uniform standards across the board regardless of provider whenever a provider seeks access to scarce numbering resources. This is needed to ensure a level playing field in technological deployment, competitive neutrality, and regulatory accountability. It also avoids opportunities for “number arbitrage” in a vein similar to the intercarrier compensation arbitrage that the FCC attempted to address in the *USF/ICC Transformation Order*.<sup>2</sup>

*Required Documentation to the State Commissions.* The State Commissions support VoIP providers being required to provide accurate contact information to effectively monitor the numbering system within each state’s geographic boundaries. Additionally, the State Commissions support imposing a filing obligation on VoIP providers so that the states can maintain a more accurate assessment of number utilization and conservation and anticipate and limit area code exhausts.

*Local Routing Number (LRN) Assignment.* LRN Assignment must be within the states’ discretion but subject to FCC oversight to prevent using LRN Assignment in a

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<sup>2</sup> *In re Connect America Fund, et al.*, WC Docket No. 10-90 *et al.*, (FCC, Rel. Nov. 18, 2011), Report and Order and Further Notice of Proposed Rulemaking, *slip op.* FCC 11-161, 26 FCC Rcd 17633 (2011), and subsequent Reconsideration and Clarification rulings (collectively *USF/ICC Transformation Order*), *appeals pending*.

discriminatory fashion. This encourages the efficient utilization of numbering resources.

While carriers must still have flexibility in securing *LRN Assignment*, the rules should require carriers to first pursue LRN Assignments from rate centers in more populated areas prior to seeking those assignments in less populated areas.

*Intermediate And Assigned Numbers.* The State Commissions support keeping all numbers that are assigned to a wholesale partner for any type of provider, which either do not have access to numbering resources or choose not to have access to numbering resources, in the intermediate category until the numbers are assigned to an actual end user. The State Commissions do not support the current practice in which intermediate numbers originally allocated to a wholesale number aggregator are treated as assigned numbers. This practice encourages numbering arbitrage and sends false signals about area code splits, overlays, or other remedial measures to address number exhaust. Moreover, the State Commissions believe that the states must be given access to all the databases necessary to monitor the database, including the Number Portability Administration Center (NPAC) used to ensure compliance with industry rules and guidelines.

## **Detailed Discussion**

### *A. Uniform Standards*

The State Commissions support the requirement that all carriers or service providers obtaining numbers, including VoIP or wireless and future carrier or provider categories yet to emerge, to follow the same numbering standards, criteria, and rules applicable to

traditional common carriers. The State Commissions believe that it is important that all service providers follow uniform rules thus ensuring a predictable and uniform numbering system administration.

The State Commissions do not support allowing non-common carrier providers or others, particularly VoIP or wireless, from obtaining the benefits of numbering resources without requiring those carriers or providers to comply with the rules, obligations and penalties imposed on current common carriers. The penalties ensure accountability – a goal that would be lost if some carriers or providers do not have to comply with uniform rules imposed on other carriers or providers — and advance the goal of conserving valuable numbering resources in a competitively neutral fashion.

Importantly, Section 253 of TA-96 requires that any state requirement be competitively-neutral. The current rules are not competitively neutral and the states' implementation of those rules could be challenged as a violation of that provision. Equally important, the FCC itself must avoid rules and results that are not competitively neutral with due allowance, of necessity, for the unique responsibilities of common carriers and Carriers of Last Resort (COLR).

The State Commissions believe that all carriers or providers must follow the same rules regardless of technology being used by a carrier or provider seeking numbering resources. The only exception should be those carriers or providers who do not need numbering resources in any capacity whatsoever as a condition of providing their services. Otherwise, any carrier or provider needing numbers is a carrier or provider subject to the FCC's rules and state number conservation and oversight efforts.

The State Commissions do not believe that Internet Protocol (IP), VoIP, or any other technological innovation is the basis for exempting any carrier or provider using such technology from compliance with numbering rules. Technological change is no basis for rewriting federal law or federal rules imposed on carriers or providers.

The State Commissions believe that the VoIP providers need to transfer their entire inventory of numbering resources to their own operating company number (OCN) from their numbering partner as a condition of receiving numbers directly. This would provide a better idea of how many resources they have and how many of them are actually assigned to end-user customers. This would be vital when it comes to calculating both utilization and months to exhaust (MTE) in order to qualify for additional numbering resources as well as in filing correct and accurate number resource utilization and forecast (NRUF) data with the North American Numbering Plan Administrator (NANPA).

The State Commissions also believe that VoIP providers should share the costs of administration for the different databases. The costs of numbering administration, number portability, and number pooling are currently shared across the industry. VoIP providers should contribute on the same basis as the traditional common carriers. The State Commissions also believe that the State Commissioners should have access to all the databases in order to monitor the databases, including the Number Portability Administration Center (NPAC) the carriers are using to insure that industry rules and guidelines are followed.

Since the telecommunications industry has changed substantially, we believe that this is the appropriate time to rewrite the INC guidelines that dictate the rules for numbering assignment to reflect the changes within the industry. For instance, although the 1000number block Pooling has worked to conserve numbers and save area codes from early exhausts up until this point, the time has come to move to another system which may include assignment of numbers in smaller numbering blocks to conserve the numbers that are currently not utilized. This is the time to explore and adopt alternative number optimization strategies such as a 100 number block pooling (or even unassigned number pooling). The move to 100 number block pooling would allow carriers to get what they need and not be forced to get a full thousand block if the carriers only need a few hundred numbers. As the thousand number block pooling once did, the lives of area codes will expand rather than decrease. The assignment to VoIP carriers directly, as well as numbering resources for machine to machine and smart phone applications, will have and already has had a major impact on area code exhaust dates. With the increased demand for numbering resources, this is an option that needs to be executed quickly while additional options are explored.

This is also the time to make sure there are strong enforcements and guidelines added to the requirements to prevent violations of the numbering requirements. The Commission should create a formal process for states to refer concerns and supporting documentation that would then be acted on in a timely fashion.

*B. Required Documentation to the State Commissions*

The State Commissions support VoIP providers being required to provide accurate contact information to effectively monitor the numbering system within each state's geographic area. Accurate provider contact information will ensure that the State Commissions have the resources they need to reach out to those VoIP providers offering service within each respective geographic area. Additionally, the VoIP providers must, at the very least, be required to file with the State Commissions prior to filing a Part 1 requesting number resources in each respective geographic area.<sup>3</sup> By imposing this type of filing obligation on VoIP providers, the State Commissions will be able to maintain a more accurate assessment of number utilization and conservation and better anticipate and limit area code exhausts.

*C. LRN Assignment*

The FCC must grant the states the right to steer LRN requests from providers toward rate centers in more populated areas, where the numbers are more likely to be utilized. However, this should occur with due allowances for the fact that some carriers or providers may be seeking numbers in less-populated areas as part of their business or service plan. This kind of approach eliminates the problem of stranding blocks where the majority of blocks would not be used due to assignment to smaller rate centers without the population size to utilize the assigned code. As indicated above, the use of this rule in a 100-block pooling approach will greatly enhance the conservation of numbers and avoid area code splits or overlays.

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<sup>3</sup> The Indiana Utility Regulatory Commission (IURC) notes that under Indiana Code 8-1-32.5, all communications service providers serving Indiana customers, including providers of IP-enabled services, are required to have a certificate of territorial authority. The statute provides for an expedited application process, and the application and instructions are readily available on the IURC website at <http://www.in.gov/iurc/2337.htm>.

*D. Intermediate versus Assigned Numbers*

The State Commissions support keeping all numbers that are assigned to a wholesale partner for any type of provider, which either does not have access to numbering resources or chooses not to have access to numbering resources, in the intermediate category until those numbers are assigned to an actual end user.

This means that the “activated” or “in-use” classification should be limited to a retail assignment to an end user, not simply “assignments” to a numbering client who may never actually place the numbers in service for an end-user retail customer.

The State Commissions also believe NRUF data requirements should be amended to reflect the quantity of numbers transferred via the porting process between numbering partners and their clients. This will allow states to monitor what numbers are actually utilized to prevent number exhaust. It will also prevent VoIP providers from receiving additional numbers until the numbers are assigned to an actual end user.

**Conclusion**

The State Commissions thank the FCC for the opportunity to file these Joint Comments.

Respectfully submitted,

**THE COMMONWEALTH OF PENNSYLVANIA  
PUBLIC UTILITY COMMISSION**

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter McGowan', is written over a horizontal line.

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In re: Numbering Policies, Docket No. 13-97  
Joint Comments of Pennsylvania, New York, and Indiana  
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