

**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

**REPLY COMMENTS OF SMARTEDGENET**

SmartEdgeNet, LLC, dba Edge Communications (“SEN”) hereby submits these reply comments on the notice of Proposed Rulemaking and Notice of Inquiry in the above-captioned dockets.<sup>1</sup>

**I. Direct Numbering Authority is Sound Policy**

In its opening comments, SEN applauded the Commission’s proposal to extend direct numbering authority to interconnected VoIP service providers – a change that is long overdue.

In particular, SEN demonstrated the following:

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<sup>1</sup> *Numbering Policies for Modern Communications, et al.*, Notice of Proposed Rulemaking, Order and Notice of Inquiry, WC Dkt. No. 13-97, et al., FCC 13-51 (Apr. 18, 2013) (“NPRM/NOI”).

Extending numbering authority to interconnected VoIP providers is not only technically feasible, it hardly constitutes a change in the *status quo*. VoIP providers will use numbering authority no differently than traditional carriers do today. The same industry databases will be populated with the same information and, in many cases, by the same people. Likewise, the Commission, working with its counterparts in the states, will continue to oversee telephone number usage.

As a practical matter, extending numbering authority to interconnected VoIP providers simply removes an unnecessary, but expensive, middle-man from the number assignment process. The result should be better, lower cost services. The change should also lead to new, lower cost, direct IP interconnection and other commercial arrangements between participants in the communications ecosystem because interconnected VoIP providers will be directly identified in the LERG and other industry databases. Free markets thrive on information, and this information will, for the first time, be available and easily accessed by other industry participants. New business arrangements of all kinds will inevitably follow.

The modest “change” that VoIP numbering represents does not justify the wholesale regulation of interconnected VoIP services that many commenters have called for. Indeed, the “evil” that proponents of regulation cite as justification – the need for proper management of “scarce numbering resources” – is, like the Boogeyman, a figment of the imagination. Telephone numbers are “scarce” only to the extent that few NXX codes are linked to specific geographic areas. Ending this number rationing will eliminate number scarcity. By doing away with the connection between telephone numbers and geography – which VoIP services help make

possible, as the Commission has long recognized<sup>2</sup> – telephone numbers immediately lose their scarcity and concerns about number “exhaust” disappear.

Furthermore, as SEN explained in its Comments, there is no reason to believe that extending numbering authority to providers of interconnected VoIP service will increase the demand for telephone numbers.<sup>3</sup> Likewise, delinking telephone numbers from geography will not affect call routing arrangements or intercarrier compensation requirements in any material way.<sup>4</sup> Indeed, extending numbering authority should not disrupt any essential services as they are currently provided. VoIP-originated calls to emergency service providers will continue to be routed to the appropriate public safety answering point, as the Commission has required since 2005, regardless of how the telephone is entered into the LERG or other industry database.

But even more important, as SEN explained, extending numbering authority to non-carriers is essential for preserving the ubiquitous interconnectedness among communications networks that end-users currently enjoy.<sup>5</sup> Neustar made the same point, explaining that:

For fixed-line carriers, the deployment of broadband technologies has paved the way for IP-based communications services to be delivered directly to consumers and businesses. For wireless carriers, the industry’s adoption of LTE and Voice-over-LTE establishes IP as the basis for core network management and transport, resulting in the convergence of multiple cellular protocols into a single IP-based standard. Moreover, the widespread deployment of Wi-Fi networks has extended IP-based communications to a variety of enabled devices and applications. ***These islands of IP networks require interconnection for seamless end-to-end communications.***<sup>6</sup>

Preserving NANPA 10-digit numbering is one step the Commission can take to help assure seamless interconnection among all industry participants, regardless of technology.

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<sup>2</sup> *Id.* at 7-9.

<sup>3</sup> SEN Comments at 12-13.

<sup>4</sup> *Id.* at 9.

<sup>5</sup> *Id.* at 24.

<sup>6</sup> Neustar Comments at 3 (emphasis added).

Thus, the question is not whether the Commission should mandate IP interconnection, as some commenters have used this proceeding to call for.<sup>7</sup> The more interesting question is how this proceeding can be used to promote IP interconnection *without* coercive regulation. The NANPA numbering scheme, over which the Commission has plenary authority, is an obvious tool. The Commission should not hesitate to use it – as it is proposing to do by extending numbering authority to interconnected VoIP service providers.

## **II. Regulation of Interconnected VoIP Service Providers Is Unnecessary**

The many benefits and few, if any, drawbacks, associated with expanding numbering authority to non-traditional providers is so obvious that none of the commenters actually oppose it. Instead, certain traditional carriers, their trade association, and state regulators have seized on the proposal as a vehicle for eliminating the functional distinction between carriers and non-carriers altogether. Thus, for example, the Michigan PSC recommends that, “at a minimum, the applicable state commissions and the FCC should be allowed to review applications and some type of compliance plan ... addressing the VoIP providers’ intentions and commitments regarding the providers’ obligations to adhere to the numbering rules and guidelines ...”<sup>8</sup> Likewise, Comptel asserts that the Commission should establish a certification process that, “*at a minimum*, requires ... the provider [to] demonstrate the financial, managerial, and technical capabilities to provide service and certify compliance with numbering administrative rules.”<sup>9</sup>

These calls for new layers of regulatory oversight are purportedly justified by claims that regulation is necessary to protect the public from telephone number “exhaust” – a phantom harm

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<sup>7</sup> It should, of course, reserve the right to do so if presented with evidence of market-power abuses and/or anti-competitive, anti-consumer conduct arising from refusals to interconnect and exchange traffic.

<sup>8</sup> Michigan Public Service Commission Comments at 2-3.

<sup>9</sup> Comptel Comments at 14 (emphasis in original).

that not only poses no danger, but does not actually exist. As SEN explained in its opening comments, number “exhaust” is a policy and business concern of what should be a bygone era, in which telephone numbers were assigned based on the geography due to the technical requirements (and limitations) of the circuit switched network architecture.<sup>10</sup> Under this regime, only a limited number of area codes were allocated to a given geographic area. There is simply no technical, social or policy reason for telephone numbers to be rationed in this manner, as they have been in the past.<sup>11</sup> Moreover, as SEN also explained in its comments, there is no reason to believe that extending numbering authority to interconnected VoIP service providers will materially increase the demand for telephone numbers.<sup>12</sup> Accordingly, calls by some commenters for a “certification,” “registration,” or other prior-approval requirement before numbering authority is extended to interconnected VoIP service providers should be rejected as patently unjustified.

SEN also takes issue with CenturyLink’s (and others’) contention that “[i]ssues such as entirely removing telephone numbers from a geographic association [*sic*]... are complicated matters that cannot be addressed in any educated fashion absent considerable industry reflection and deliberation.”<sup>13</sup> This call for delay is just that. It is simply not justified by technical considerations. Databases can be modified very quickly to provide for direct IP routing, as demonstrated by the trial. In the interim, indirect interconnection through costly carrier-partner arrangements – in which calls are converted from IP to TDM (and *vice versa*) and routed through

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<sup>10</sup> SEN Comments at 11-13.

<sup>11</sup> *Id.* at 9-10

<sup>12</sup> *Id.* at 12.

<sup>13</sup> CenturyLink Comments at 14.

points of presence that interconnected VoIP providers maintain on the PSTN – is already a well-established (if wasteful) process.

## **II. The FCC Has The Legal Authority To Provide Non-Carriers With Number Assignment Authority**

Finally, SEN addresses the Commission’s authority to provide non-carrier VoIP providers with numbering authority. Comptel suggests that the answer is to deem VoIP to be a telecommunications service, which would mean that interconnected VoIP providers are telecommunications carriers, and to proceed from there. This radical move is not only questionable as a legal matter but unnecessary because the Commission has all the authority it needs under Section 251(e)(1) of the Communications Act.

Comptel’s argument is in response to the Commission’s request for comment on whether its proposal to extend telephone numbering rights to non-carriers could rest on the agency’s Title I “ancillary jurisdiction.”<sup>14</sup> Comptel claims that while the Commission may have Title I authority today, it may not in the future, as more and more communications becomes VoIP-based. At some point during this transition, Comptel says, “the Commission risks that there will be no basis for the Commission to exercise Title I ancillary jurisdiction” because there will be no services over which it has direct authority.<sup>15</sup>

Comptel’s concern is hypothetical, at best. The day of reckoning that Comptel envisions – when the number of traditional carriers dwindles to the point where the argument might be worth addressing more seriously – is years away. But even if Comptel were correct about the limits of the Commission’s Title I authority on this issue, Comptel has overlooked – indeed, it does not even mention – Section 251(e)(1), which provides the Commission with a direct

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<sup>14</sup> NPRM/NOI ¶ 85.

<sup>15</sup> Comptel Comments at 3.

statutory basis for extending numbering to interconnected VoIP service providers. Section 251(e)(1) provides as follows:

The Commission shall create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States. Nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities all or any portion of such jurisdiction.<sup>16</sup>

As the Commission and the Courts have recognized, Section 251(e)(1), which provides the Commission with “plenary authority over the North American Numbering Plan (NANP) within the United States,”<sup>17</sup> clearly provides sufficient authority for the Commission’s proposal to make “numbers available on an equitable basis,” *i.e.*, to legacy and IP carriers alike.

Notably, the first sentence of Section 251(e)(1) speaks of “telecommunications numbering and to make such numbers available on an equitable basis.” It thus applies to VoIP services regardless of whether they are ultimately (if ever) found to be “telecommunications services” under the Act. Indeed, making such numbers available on an equitable basis, *i.e.*, between TDM and VoIP service providers, is exactly what the Commission is proposing in this instance. The second sentence of Section 251(e)(1) is even more definitive. It provides that “The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States.” In other words, it grants the Commission plenary authority over NANPA numbering without regard to the classification of the service being provided.

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<sup>16</sup> 47 U.S.C. § 251(e)(1).

<sup>17</sup> NPRM/NOI ¶ 5; *see also Kristin Brooks Hope Center v. F.C.C.*, 626 F.3d 586, 588 (DC Cir. 2010) (same).

### **III. Conclusion**

For the reasons stated herein, and in SEN's comments, SEN endorses the Commission's proposal to extend telephone numbering authority to interconnected VoIP service providers but by retaining the current numbering plan without any geographical ties and without adding any additional layer of regulation. The change represents a logical evolution in industry practice that stands to offer better, lower-cost service, and will help to pave the way toward the all-IP network of the future.

Respectfully submitted,

/s/ Randall B. Lowe

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Randall B. Lowe  
Michael C. Sloan  
Davis Wright Tremaine LLP  
1919 Pennsylvania Avenue, N.W.  
Washington, DC 20006-3401  
Tel: (202) 973-4221  
Fax: (202) 973-4421  
Attorneys for SmartEdgeNet, LLC

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