

**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 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)	
)	

**REPLY COMMENTS OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

I. INTRODUCTION & SUMMARY

NTCA–The Rural Broadband Association¹ (“NTCA”) hereby submits these reply comments in response to comments filed on the Notice of Proposed Rulemaking and Notice of Inquiry seeking comment on whether interconnected Voice over Internet Protocol (“VoIP”)

¹ NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service local exchange carriers (“LECs”) and broadband providers, and many of its members provide wireless, cable, satellite, and long distance and other competitive services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended.

providers should have direct access to telephone numbers.² The record in this proceeding supports the need for a rigorous but reasonable review process that should precede any grant of access to numbering resources to any given non-carrier. The fabric of federal and state regulation that applies to all common carriers safeguards the integrity of the public switched telephone network (“PSTN”) and protects consumers. Even if this regulatory construct may be in great need of updating, the Commission should not haphazardly toss it aside altogether in this context, particularly given that telephone numbers are a valuable and limited resource and the threat of number exhaust remains real. This valuable public resource should only be entrusted to those with the financial, managerial, and technical wherewithal to make judicious use of them, and subject to the reasonable and measured oversight of entities, such as this Commission, that are charged with ensuring the public interest in connection with the use of such a resource.

II. THE COMMISSION MUST FIRST AND FOREMOST ENSURE THE PUBLIC INTEREST IS SERVED IN ANY USE OF TELEPHONE NUMBERING RESOURCES

As NTCA stated in its initial comments,³ there is a fabric of federal and state regulation that applies to all common carriers, and permitting non-carriers to step into the shoes of a carrier not only calls into question the statutory framework from which the Commission derives its authority over communications in the first instance, it also puts essential public policy objectives at risk. With good reason, carriers have myriad responsibilities, obligations and legal and technical requirements that protect consumers and help to safeguard the integrity of the PSTN. While this regulatory fabric may be in need of refreshing and revision in certain respects, it

² *In the Matter of Numbering Policies for Modern Communications, et al*, WC Docket No. 13-97, *et al*, Notice of Proposed Rulemaking, Order and Notice of Inquiry, (rel. Apr. 18, 2013) (“Numbering NPRM”).

³ Comments of NTCA, WC Docket No. 13-97, *et al.* (fil. Jul. 19, 2013), p 2.

serves a valuable purpose and to toss it aside (or permit evasion of it) cavalierly or to think that it can be easily rebuilt later, if needed, is short-sighted. Indeed, the burdens on competitive carriers in particular are not especially significant. Any provider with an interest in direct access to numbering resources can readily seek authority to provide service as a carrier, such as with a license issued by the Commission or a certificate of public convenience and necessity issued by a state regulatory body, and the reporting and corresponding obligations associated with such status as a competitive provider are hardly overwhelming.

If the Commission chooses nonetheless to permit direct access to numbers to non-carriers, commenters agree with NTCA that it must adopt rigorous processes and procedures that protect the public interest.⁴ As the Michigan PSC states, “state commissions and the FCC should be allowed to review applications and some type of compliance plan, if necessary – *similar to ETC applications* – addressing the VoIP providers’ intentions and commitments regarding the providers’ obligations to adhere to the numbering rules and guidelines that apply to the remainder of the industry.”⁵ In terms of why such a showing is so critical to the public interest, Level 3 offers an example that is particularly instructive. Level 3 states that:

numbers holders are essential participants in the number porting process, working together to ensure port requests are completed both quickly and smoothly. [Thus a] demonstration of technical and managerial capability will show that the numbers holder has the capability to perform its duties, and a demonstration of financial capability will ensure that, in the event the numbers holder fails to do so,

⁴ Comments of Level 3 Communications, LLC (“Level 3”), WC Docket No. 13-97, *et al.* (fil. Jul. 19, 2013), pp. 2-4; Comments of the Michigan Public Service Commission (“MPSC”), WC Docket No. 13-97, *et al.* (fil. Jul. 19, 2013), pp. 2-3; Comments of CompTel, WC Docket No. 13-97, *et al.* (fil. Jul. 19, 2013), p. 3; Comments of GVNW Consulting, Inc., WC Docket No. 13-97, *et al.* (fil. Jul. 19, 2013), p. 7; 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 (“Joint Commenters”), WC Docket No. 13-97, *et al.* (fil. Jul. 19, 2013), p. 6.

⁵ MPSC, pp. 2-3. Emphasis added.

an enforcement action against it (potentially involving the loss of certification and monetary penalties) will be meaningful.⁶

This line of reasoning applies equally with respect to each and every responsibility that a carrier has to the consumers that are the ultimate beneficiaries of numbering resources.

While the NPRM correctly notes that some states do not certify VoIP carriers,⁷ in these instances the Commission should exercise its expertise to step into this role to ensure that its numbering resource policies and the broader public interest are fulfilled. As one commenter points out, this would be entirely consistent with the Commission's role in certifying eligible telecommunications carriers ("ETCs") or arbitrating interconnection disputes in instances in which a state commission lacks jurisdiction or declines to intercede.⁸ Commenters also agree that state commissions that lack the authority to certify VoIP providers should be given the opportunity to formally object to an assignment of numbers to a VoIP carrier.⁹

Commenters further assert that the threat of number exhaust is real and that the Commission should be vigilant in preserving this valuable resource.¹⁰ As the Commission knows, the Numbering Resource Utilization/Forecast Report ("NRUF") is designed to forecast the exhaust of each area code in the North American Numbering Plan ("NANP"). As just one of their obligations to protect the public interest, if VoIP providers are given direct access to numbering resources, they should be required to file NRUF Form 502, as carriers are presently

⁶ Level 3, p. 3.

⁷ Numbering NPRM, ¶ 20.

⁸ Level 3, p. 3. *See also*, 47 U.S.C. §§ 252(e)(5), 214(e)(6).

⁹ Comments of the California Public Service Commission, WC Docket No. 13-97, *et al.* (fil. Jul. 19, 2013), p. 10.

¹⁰ Comments of the New Jersey Division of Rate Counsel, WC Docket No. 13-97, *et al.* (fil. Jul. 19, 2013), p. 10; CompTel, p. 3; Joint Commenters, p. 3.

required to do. Moreover, as the Wisconsin Public Service Commission states, VoIP providers granted direct access to numbers should be required to include numbers obtained from carrier partners on their NRUF Form 502.¹¹ This will help to provide the Commission with a more accurate forecast of number utilization.

Also, commenters, like NTCA, recognize that critical routing issues must be addressed to prevent “end user confusion and interference with emergency services and response.”¹² More specifically, as Comcast correctly states, “[t]he accurate population of key databases, such as the local exchange routing guide (“LERG”) database, is essential today to ensure that voice traffic is reliably transmitted to the called locations.”¹³ A requirement that VoIP providers “populate the LERG database by listing each VoIP provider’s identifying operating company number with the active NANP numbers assigned to the provider”¹⁴ will help to facilitate the proper routing of telephone calls. In addition, where an interconnected VoIP provider lacks an interconnection agreement, direct access to numbers should be conditioned on their use of a carrier partner to ensure that calls are properly routed.¹⁵

¹¹ Joint Commenters, p. 8.

¹² Numbering NPRM, ¶ 41.

¹³ Comments of Comcast Corporation (“Comcast”), WC Docket No. 13-97, *et al.* (fil. Jul. 19, 2013), p. 9.

¹⁴ *Id.*

¹⁵ Numbering NPRM, ¶ 44. As the NPRM notes, Vonage has stated that where it lacks an IP interconnection agreement it will continue to rely on carrier partners to properly route calls, with originating providers using the Common Language Location Identification in the NPAC or LERG databases to route calls. Vonage states that carrier partners can provide the necessary switching facilities to do so. *See*, NPRM, ¶ 43. *See also*, Comcast, pp. 9-10 (“If a voice provider does not have an interconnection agreement with a particular terminating VoIP provider, the originating service provider can use the Common Language Location Identifier code in the LERG database to identify the switch serving the VoIP provider’s phone numbers and route the call accordingly.”). *See also*, Comments of Hybercube Telecom, LLC, WC Docket No. 13-97, *et al.* (fil. Jul. 19, 2013), p. 13, fn. 39.

In granting a limited technical trial of direct access to numbers, the Commission stated that it was tailoring its waiver specifically to test whether giving interconnected VoIP providers access to numbers will raise issues relating to number exhaust, number porting, VoIP interconnection, or intercarrier compensation.¹⁶ Given that this trial is in its infancy, it is simply premature for the Commission to move forward with the proposals contained in the NPRM absent receipt and through review of the data that it will obtain. It would also seem, unfortunately, that these “trials” – occurring in self-selected markets without any thought in advance as to controls or public review – are unlikely to yield any statistically significant data to inform further deliberation, meaning that additional steps may be required before sufficient information is available.

If the Commission is, nonetheless, determined to proceed full speed ahead and grant access to numbering resources to non-carriers, the safeguards such as those discussed above and others that are tailored to serve the public interest must be in place to enable regulators to monitor potential number exhaust as well as routing and interconnection issues. Telephone numbers are a valuable and limited resource, and the threat of number exhaust is real. Thus, this valuable public resource should only be entrusted to those with the financial, managerial, and technical wherewithal to make judicious use of them. Certainly, the Commission should not rush ahead to grant numbers to non-carriers based on vacuous, unsupported claims that doing so will somehow “unleash innovation” or vague assertions that the transition to IP technologies renders unnecessary the regulatory backstops that have protected consumers while concurrently enabling the very IP transition that is already under way. The Pennsylvania, New York, and Indiana state commissions state it best, saying that, “Internet Protocol (IP), VoIP, or any other technological

¹⁶ Numbering NPRM, ¶ 94.

innovation is [not] the basis for exempting any carrier or provider using such technology from compliance with numbering rules.”¹⁷

As NTCA stated in its initial comments, there should at bottom be an even regulatory playing field – all that gain access to direct number resources should be subject to the same rules, procedures, and requirements that carriers are subject to in making use of such numbers. To this end, unless and until a thoughtful and holistic “smart regulation review” finds good reason for a specific rule to be waived, modified, or the subject of forbearance, the Commission should not needlessly and haphazardly toss aside the regulatory framework that maximizes number utilization for the ultimate benefit of consumers that utilize the PSTN.

III. CONCLUSION

The record in this proceeding supports the need for a rigorous but reasonable review process that should precede any grant of access to numbering resources to any given non-carrier. Numbering resources are a valuable public resource and should only be entrusted to those with the financial, managerial, and technical wherewithal to make judicious use of them, and subject to the reasonable and measured oversight of entities, such as this Commission, that are charged with ensuring the public interest in connection with the use of such a resource.

¹⁷ Comments of the Pennsylvania Public Utility Commission, the New York Public Service Commission, and the Indiana Utility Regulatory Commission (“State Commissions”), WC Docket No. 13-97, *et al.* (fil. Jul. 19, 2013), p. 6. *See also*, Joint Commenters, p. 3 (“The transition of technologies and the goals of ‘promoting innovation, investment, and competition for the ultimate benefit of consumers and businesses’ in no way necessitate actions to bypass, or to diminish adherence to, [the] long-held but still relevant rubric about the importance of effective number management.”).

Respectfully submitted,



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