

**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
Scheme

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 THE
CALIFORNIA PUBLIC UTILITIES COMMISSION
AND THE PEOPLE OF THE STATE OF CALIFORNIA**

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The California Public Utilities Commission and the People of the State of California (California or CPUC) submit these reply comments to address other parties comments submitted in response to the *Notice of Proposed Rulemaking, Order and Notice of Inquiry (NPRM, Order, NOI)*, which the Federal Communications Commission (FCC or Commission) released on April 18, 2013.¹

The CPUC comments here on many, but not all, of the issues raised in the other parties' comments. Silence on any issue should not be construed either as support or opposition to any other party's comments.

I. LEGAL ISSUES

A. FCC Authority

The CPUC agrees with those commenters who, along with the CPUC, raised the obvious dilemma the FCC has created for itself and others by declining to classify VoIP service as a “telecommunications service,” and VoIP providers as “telecommunications carriers.” This failure to classify has resulted in workarounds that create dual sets of rules – one for telecommunications carriers and one for VoIP providers – with direct access to numbering resources being another example. These two sets of rules run counter to both federal and state policies geared towards regulation that is “technologically neutral.” The FCC's proposed rules would allow providers of the same service using different technologies to be treated differently for purposes of obtaining telephone numbers.

¹ *In the Matter of Numbering Policies for Modern Communications*, et al, *NPRM, Order, and NOI*; WC Docket No. 13-97; et al (FCC 13-51) rel. April 18, 2013.

As New Jersey Rate Counsel points out, “differences in technology should play no part in the rights and responsibilities that voice telephone service providers have with respect to numbers.”² The CPUC agrees with the Joint Comments of Oregon, Wisconsin, Idaho, Minnesota, and Nebraska that in approving VoIP providers’ direct access to numbers, the FCC should apply “obligations currently imposed on traditional carriers.”³

Again, the CPUC acknowledges the FCC’s proposal to modify its rules so that, *for numbering purposes*, the definition of “telecommunications service” would include VoIP service, and the definition of “telecommunications carrier” would include VoIP providers. This ad hoc proposal, however, must satisfy the technology-neutral standard, and should not jeopardize the state role in administering finite public numbering resources.

B. Documentation Required to Obtain Numbers

Several commenters suggested that, in the absence of state or federal registration or licensure, the process for a VoIP service provider to demonstrate its eligibility to obtain numbers should be “simple ministerial efficiency.”⁴ More specifically, Pennsylvania, New York, and Indiana proposed that VoIP

²New Jersey Rate Counsel’s Comments, p. 2. The CPUC is mindful that VoIP providers assert that they offer an “interstate information service,” as documented in Appendix A of CPUC July 19th Comments.

³ 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 at 2. With one exception identified elsewhere in these comments, the CPUC concurs with the Joint Commenters.

⁴ *Id.*, p. 6.

documentation be accurate contact information.⁵ Indeed, California’s comments suggested a similar approach, citing to a state statute requiring VoIP providers to collect and remit state surcharges, pursuant to which CPUC staff has created an informal “VoIP registration” process. California would like to clarify here its recommendation, and disagree with those commenters proposing “registration light.”

Recognizing that some states cannot certify VoIP providers pursuant to relevant state statutes, the FCC should institute a process for certifying these providers absent state certification. At the same time, the FCC’s process could include a delegation of authority to states so that states able to exercise delegated authority could perform the certification function for the FCC.⁶

We note that the FCC has deemed telephone numbers to be a public resource, and that the FCC and the states have worked closely together in the past to manage and protect that resource with the goal of extending the life of the North American Numbering Plan.⁷ Consistent with that goal, it would be appropriate for any entity seeking to obtain telephone numbers – a public resource – to make a showing somewhat more substantial than just a name, address, and a telephone

⁵ Joint Comments of Pennsylvania, New York and Indiana, p. 3.

⁶ For example, § 710(a) of the California Public Utilities Code explicitly prohibits the CPUC from exercising “regulatory jurisdiction or control” over VoIP providers “except as required or expressly delegated by federal law”

⁷ See *In the Matter of Numbering Resource Optimization Notice of Proposed Rulemaking*, FCC 99-122, released: June 2, 1999, ¶ 229, “We agree that numbers are a public resource...”

number. The certification process should require the applicant to demonstrate, for example, that it provides access to emergency services.

The CPUC's proposal that compliance with its informal registration process might be sufficient was premised on the notion that someone else – ideally the FCC – would verify that the entity seeking numbers is an entity capable of providing service and accountable for its service obligations. Accordingly, whether the FCC or a state certifies a VoIP provider to obtain telephone numbers, the process should include a requirement that the recipients must follow all state and federal rules required of other service providers who currently obtain telephone numbers.

II. NUMBERING ADMINISTRATION REQUIREMENTS

A. Number Exhaust is an Issue

AT&T takes issue with the FCC's suggestion that state commissions be allowed to block a VoIP provider from obtaining numbers in a particular rate center if the state commission finds that direct access in non-pooling rate centers will contribute substantially to number exhaust.⁸ AT&T contends that the Commission need not “take additional steps to prevent number exhaust, given existing rules and reporting requirements ...”⁹ The CPUC disagrees. Based on

⁸ AT&T's Comments, p. 7, citing to the *NPRM*, ¶ 26.

⁹ *Id.*

our direct experience with number exhaust, additional steps to prevent number exhaust are necessary.¹⁰

The AT&T claim that number exhaust is not an issue is belied by the facts. In October of 2011, the date for introducing a new area code in 415 was moved from 2019 to 2015 because of number exhaust.¹¹ A CPUC analysis of the increased demand for NXX codes in 415 showed that the rising demand for new codes was driven by both AT&T Wireless and Google Voice.

This consideration aside, the CPUC does agree with AT&T that the existing system could be made more efficient, and supports the suggestion that use of the Number Administration Portability Center be expanded and the size of numbering blocks provided to service providers be further honed.

B. Use of Numbers in Oversubscribed Numbering Pools

AT&T maintains that “we oppose special codes for different services or restricting providers in pre-approved rate centers.”¹² In addition, AT&T characterizes the notion of steering numbering demands to areas where there are surplus numbering resources as “ghettoizing.”¹³ California also opposes designating specific codes for specific services. The CPUC does, however,

¹⁰ In the matter of California Public Utilities Commission Petition for Delegation of Additional Authority pertaining to Area Code Relief and NXX Code Conservation measures, CC Docket No. 96-98, FCC 99-248 (rel. Sept 15, 1999).

¹¹ North American Numbering Plan Administrator, 2013-1 NRUF and NPA Exhaust Analysis October 2011, NPA Exhaust Forecasts Sorted By NPA.

¹² AT&T Comments, p. 7.

¹³ *Id.*

advocate using the capabilities of this new technology to achieve greater efficiency, not to exacerbate existing inefficiencies.

For example, only four area codes out of California's existing 26 area code complexes do not have a rate center where the size of the existing pool exceeds a reasonable expectation that those numbers will be used. VoIP providers and all other service providers can manage to obtain sufficient numbering resources even with a restriction intended to guide demand to rate centers with a plentiful supply of numbers. This is important for the acquisition of location routing numbers (LRNs) because a LRN can be located anywhere within the LATA. Using multiple rate centers for LRNs in California's area code complexes cannot be considered a proposal to segregate service providers.

The CPUC notes that SBC-IS sought and was assigned LRNs in numerous underutilized California rate centers - Burrell, Coulterville, Alta, Alleghany, Dulzura, Baker, Loleta, Walker Basin and Bangor – all of which are rate centers with little or no customer base and no foreseeable need for additional numbering resources.¹⁴ SBC-IS's LRN requests resulted in codes being assigned that were unrelated to customer demand. This conduct highlights the irrelevance of location to a VoIP provider's number needs, and emphasizes the consequences to the numbering system of not using the numbers that are already available for assignment to customers. In other words, AT&T's subsidiary has actually

¹⁴ At the time that SBC-IS obtained authority to gain direct access to numbers, it was a subsidiary of SBC, which subsequently acquired AT&T, so that the same entity now is a subsidiary of AT&T.

engaged in the very type of activity that prompted the CPUC to recommend steering VoIP providers to underutilized rate centers.

C. Numbering Resource Utilization and Forecast Reporting

The CPUC agrees with many of the specific proposals proffered by the Pennsylvania Public Utilities Commission (PaPUC). In particular, California agrees that the FCC should grant states the right to steer LRN requests toward rate centers with pools containing excess blocks of numbers; should rewrite the Industry Numbering Committee (INC) guidelines and move to pooling in 100-blocks;¹⁵ and should encourage rate center consolidation.¹⁶ California further supports the PaPUC's proposal that, as a precondition to obtaining numbers, a VoIP retail service provider's existing numbering partner should transfer to the VoIP provider's identified Operator Company Number (OCN) that partner's inventory of intermediate numbers allocated to the VoIP provider. In addition, the CPUC recommends that all carriers with an inventory of numbers be required to report to the NANPA their ported numbers.¹⁷

Numbering Resource Utilization Forecast (NRUF) reporting is designed so that a service provider is obligated to account only for the numbers assigned to its OCN. As California pointed out in its comments, there is little or no obligation to

¹⁵ Pennsylvania, p. 3.

¹⁶ *Id.*, p. 4. California notes that designation of rate centers is a state matter, and the FCC cannot require states to consolidate rate centers. The FCC could adopt a policy encouraging states to do so as a means to extend the life of the NANP. Since carriers today often obtain numbers in every rate center where they provide service, fewer rate centers would mean a need for fewer numbers.

¹⁷ *Id.*, Joint Comments of Pennsylvania, New York, and Indiana, p. 6.

report on the receipt of intermediate numbers. Ported numbers are only reported by the entity who received the numbers from the NANPA. If a VoIP provider's inventory includes intermediate numbers received from another service provider or bulk ported numbers from another service provider, the status of those numbers will not affect the VoIP providers NRUF report, its utilization rate, or its eligibility for additional numbering resources. This reporting opacity would be remedied by requiring VoIP providers to transfer all numbers in their current inventories to their newly-assigned OCN.

The CPUC also agrees with the PaPUC that states should continue to be active participants in identifying and monitoring the impact of any VoIP direct access to numbers in the numbering pilots to be conducted within their borders.¹⁸ The states are uniquely situated to oversee service providers' use of numbers at the local level, and to highlight misuse and abuse of numbers. It has been California's hard-earned experience that some service providers will hoard numbers rather than take numbers as they are needed. The result is that numbers are used inefficiently, and when new area codes must be implemented, the public bears the cost and inconvenience.

¹⁸ Pennsylvania Comments, p.3.

III. CONCLUSION

The CPUC submits these reply comments to address the myriad and complicated issues raised in both the *NPRM* and the *NOI* in the above-captioned docket.

Respectfully submitted,

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