ORIGINAL

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February 4, 2004

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COMMISSION
CLERK

Mrs. Blanca S. Bayó
Director, Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 001503-TP (Number Pooling Trials)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc., Sprint Florida, Inc. and the Office of Public Counsel's Joint Stipulation of the Record and Notice of Intent by BellSouth, which we ask that you file in the captioned docket. Please also note that the confidential version of Attachment 14 and Attachment 18 will be filed and protected by Sprint.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

Sincerely,

Nancy B. White (WA)

Nancy B. White

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey

AUS
CAF
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CTR
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OPC
MMS
SEC 1
OTH 1 cert records

This notice of intent was filed in a docketed matter by or on behalf of a "telco" for Confidential DN 01671-04. The confidential material is in locked storage pending staff advice on handling.

Joint Stip of Record + NOI
DOCUMENT NUMBER-DATE
01670 FEB-4 04
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Confidential
DOCUMENT NUMBER-DATE
01671 FEB-4 04
FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE
Docket No. 001503-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail (w/o attachments) and Federal Express (2nd business day) delivery this 4th day of February, 2004 to the following:

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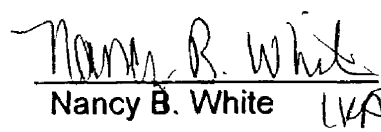
Nancy B. White LKA

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cost Recovery and Allocation of Issues for Number Pooling Trials in Florida	)	Docket No. 001503-TP
	)	Filed: February 4, 2004

Joint Stipulation of the Record of BellSouth Telecommunications, Inc. Sprint-Florida, Inc. and Citizens of Florida and Notice of Intent by BellSouth

Pursuant to the Joint Motion to Amend Procedural Schedule filed by BellSouth Telecommunications, Inc. ("BellSouth"), Sprint-Florida, Inc. ("Sprint") and the Citizens of Florida ("Citizens"), BellSouth, Sprint and Citizens hereby submit that the following is a list of the attached documents that form the record in this case:

1. Federal Communications Commission ("FCC") Order No. 99-249, released September 15, 1999.
2. FCC Order No. 00-104, released March 31, 2000.
3. Order No. PSC-00-0543-PAA-TP, issued on May 30, 2000.
4. Order No. PSC-00-1046-PAA-TP, issued on May 30, 2000.
5. Post workshop comments filed by Citizens on February 16, 2001.
6. Post workshop comments filed by BellSouth on February 16, 2001.
7. Post workshop comments filed by Sprint on February 16, 2001.
8. FCC Order No. 00-429, released December 29, 2000.
9. FCC Order No. 01-362, released December 28, 2001.
10. Order No. PSC-02-0466-PAA-TP, issued on April 5, 2002.

11. Order No. U-13086, issued November 20, 2001 by the Michigan Public Service Commission.

12. Order No. 63982, issued August 30, 2001 by the Arizona Corporation Commission.

13. Petition filed by BellSouth in Docket No. 001503-TP on August 5, 2002.

14. Petition filed by Sprint in Docket No. 001503-TP on September 30, 2002.

15. Order No. PSC-03-1270-PAA-TP, issued on November 10, 2003

16. Order No. PSC-03-1096-PAA-TP, issued on October 2, 2003.

17. Revenue Impact of BellSouth price changes.

18. Revenue Impact of Sprint price changes.

The parties' willingness to stipulate the above listed documents as the record does not serve to waive any party's right to dispute the relevance of any of documents in their briefs or at any oral argument.

Notice of Intent to Request Confidential Clarification

BellSouth hereby claims confidentiality of certain documents placed into the record. This Notice of Intent is being filed by BellSouth only. Citizens does not join in this notice. The information contained in Item 13 listed above is proprietary and entails information that is clearly confidential and proprietary under Florida Statutes, Section 364.183. Because the response contains proprietary information, BellSouth is filing this Notice of Intent to Request Confidential Classification, pursuant to Rule 25-22.006(3), Florida Administrative Code, in order to allow the Commission Staff to take possession of the document without delay. The original of this notice has been field with the Division of Records and Reporting.

Respectfully this 4th day of February, 2004.

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LEXSEE 14 F.C.C.R. 17506

In the Matter of Florida Public Service Commission Petition to Federal Communications Commission for Expedited Decision for Grant of Authority to Implement Number Conservation Measures

CC Docket No. 96-98; NSD File No. L-99-33

FEDERAL COMMUNICATIONS COMMISSION

14 FCC Rcd 17506; 1999 FCC LEXIS 4519

RELEASE-NUMBER: FCC 99-249

September 15, 1999 Released; Adopted September 15, 1999

ACTION: [**1] ORDER

JUDGES:

By the Commission

OPINION:

[*17506] **I. INTRODUCTION**

1. This order responds to the Florida Public Service Commission's (Florida Commission) April 2, 1999, Petition for Expedited Decision for Grant of Authority to Implement Number Conservation Measures (Petition) requesting additional authority from the Commission to implement various area code conservation measures in the state of Florida. We herein conditionally grant the Florida Commission the authority to institute thousands-block pooling trials; reclaim unused and reserved NXX codes, and portions of those codes; maintain rationing procedures for six months following area code relief; set numbering allocation standards; and require the submission of utilization data from all carriers; and implement NXX code sharing. We reiterate that consolidating rate centers/areas already is within the authority of the Florida Commission. Therefore, while no action on our part appears to be necessary with respect to this aspect of the Florida Commission's request, we grant the Florida Commission's request for any additional authority it may need to consolidate rate centers to optimize the use of numbering resources. We deny the Florida Commission's [**2] requests for authority to implement unassigned number porting; to order carriers to expand deployment of LNP; and to direct the NANPA to conduct quarterly Central Office Code Utilization Surveys (COCUS). The Florida Commission may, however, undertake such surveys itself. We decline to reach the Florida Commission's requests to revise NXX code rationing procedures and to institute rationing prior to arriving at an area code relief plan at this time. Although we grant the Florida Commission interim authority to institute many of the optimization measures raised in its Petition, this grant will be superseded by forthcoming decisions in the *Numbering Resource Optimization* proceeding n1 that will establish national guidelines, standards, and procedures for numbering optimization. Thus, this limited grant of delegated authority should not be construed as prejudging any of the issues on which the Commission has sought public comment in the *Numbering Resource Optimization Notice*.

n1 *See* Numbering Resource Optimization, *Notice of Proposed Rulemaking*, CC Docket No. 99-200, FCC 99-122 (rel. June 2, 1999) (*Numbering Resource Optimization Notice*).

[*17507] **II. BACKGROUND** [**3]

Attachment 1

2. Congress granted the Commission plenary jurisdiction over numbering issues. n2 Section 251(e)(1) of the Act also allows the Commission to delegate to state commissions all or any portion of its jurisdiction over numbering administration. n3 The Commission's regulations generally require that numbering administration: (1) facilitate entry into the telecommunications marketplace by making telecommunications resources available on an efficient and timely basis to telecommunications carriers; (2) not unduly favor or disfavor any particular industry segment or group of telecommunications consumers; and (3) not unduly favor one telecommunications technology over another. n4 Further, our regulations specify that, if the Commission delegates any telecommunications numbering administration functions to any state, the states must perform the functions in a manner consistent with these general requirements. n5

n2 *47 U.S.C. § 251*(e).

n3 *47 U.S.C. § 251*(e)(1).

n4 47 C.F.R. § 52.9(a).

n5 47 C.F.R. § 52.9(b).

3. On September 28, 1998, the Commission released the *Pennsylvania Numbering Order* delegating [**4] additional authority to state commissions to order NXX code rationing in conjunction with area code relief decisions, in the absence of industry consensus. n6 The order further approved a mandatory thousands-block number pooling trial in Illinois. n7 The order provided that state utility commissions could order voluntary pooling trials, n8 but in view of the Commission's efforts to develop national pooling standards, we declined to delegate to state commissions the general authority to order mandatory number pooling. n9 The *Pennsylvania Numbering Order*, however, encouraged state commissions to seek further limited delegations of authority to implement other innovative number conservation methods prior to implementing number conservation plans. n10

n6 *Pennsylvania Numbering Order* at 19025, P24.

n7 *Id.* at 19029-30, P30.

n8 *Id.* at 19027-28, PP27-28.

n9 *Id.* at 19027, P27. Subject to conditions, we permitted states to order the withholding of a certain number of NXX codes within a new area code from assignment and saved for pooling. *Id.*

n10 *Id.* at 19030, PP31.

4. In its Petition, the Florida Commission requests that the Commission grant it [**5] the authority to: (1) institute thousands-block number pooling; n11 (2) implement NXX code sharing [*17508] within rate centers; (3) revise rationing procedures and institute NXX lotteries prior to adopting an area code relief plan; (4) reclaim unused and reserved NXX codes; (5) maintain NXX code rationing measures for six months following implementation of area code relief plans; (6) expand deployment of permanent LNP; (7) implement unassigned number porting; (8) consolidate rate centers; and (9) require all carriers to submit utilization data at the thousands-block level. n12 In addition, the Florida Commission requests that this Commission direct the NANPA to conduct the Central Office Code Utilization Survey (COCUS) n13 quarterly and establish code allocation standards to more efficiently manage numbering resources. The Florida Commission states that it requests this additional authority as part of its ongoing area code relief proceeding and to minimize consumer confusion and expenses associated with imposing new area codes too frequently. n14 On April 15, 1999, the Petition was placed on Public Notice for public comment. n15

n11 The Petition notes in a parenthetical that the Florida Commission might also consider number pooling in blocks of 100. Petition at 3. The Florida Commission provides no details of pooling at the hundreds-block level, and we note that the number pooling guidelines developed to date do not address hundreds-block pooling. We therefore decline to address this aspect of the Petition. [**6]

n12 Petition at 2-5.

n13 The NANPA administers the COCUS annually, which asks each carrier to provide information on the total number of NXX codes assigned to it in each NPA, as well as its forecasted demand for NXX codes over the next five years. *Numbering Resource Optimization Notice* at PP71.

n14 Petition at 7.

n15 Common Carrier Bureau Seeks Comment on the Florida Public Service Commission's Petition for Authority to Implement Number Conservation Measures, *Public Notice*, DA 99-725 (rel. April 15, 1999). *See also* Common Carrier Bureau Seeks Comment on State Utility Commission Requests for Additional Authority to Implement Telecommunications Numbering Conservation Measures, *Public Notice*, DA 99-1198 (rel. June 22, 1999).

III. DISCUSSION

5. We recognize that the area code situation in Florida is critical, with nine new area codes having been added since 1995, six of which may already be in jeopardy. n16 In light of this extreme situation and in order to empower the Florida Commission to take steps to make number utilization more efficient, we herein grant significant additional authority to the Florida Commission. In some instances, we are granting [**7] the Florida Commission authority that goes beyond the parameters outlined in the *Pennsylvania Numbering Order*, because we find such grant to be appropriate in light of the specific circumstances in Florida.

n16 Petition at 1.

6. Many of the measures proposed in the Florida Commission's Petition are also examined in a Notice of Proposed Rulemaking that this Commission recently released. n17 Although we grant the Florida Commission interim authority to institute many of the optimization measures in the Petition, we do so subject to the caveat that this grant will be superseded by forthcoming decisions in the *Numbering Resource Optimization* proceeding that will establish national guidelines, standards, and procedures for numbering optimization. This limited grant of delegated authority should not be construed as a prejudgment of any of the [*17509] measures on which the Commission has sought public comment in the *Numbering Resource Optimization Notice.*

n17 *See Numbering Resource Optimization Notice.*

7. Congress granted this Commission exclusive jurisdiction over those portions of the North American Numbering Plan (NANP) that relate to the United States, and [**8] directed that the Commission administer the NANP in a manner which assures that numbering resources are available on an equitable basis. n18 The Commission was also granted the authority to delegate this jurisdiction to state utility commissions. Thus, while we grant authority below to the Florida Commission to engage in various matters related to administration of the NANP in Florida, we require the Florida Commission to abide by the same general requirements that this Commission has imposed on the numbering administrator. Thus, the Florida Commission, to the extent it acts under the authority delegated herein, must ensure that numbers are made available on an equitable basis; that numbering resources are made available on an efficient and timely basis; that whatever policies the Florida Commission institutes with regard to numbering administration not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers; and that the Florida Commission not unduly favor one telecommunications technology over another. n19

n18 *47 U.S.C. § 251*(e)(1).

n19 *See* 47 C.F.R. § 52.9(a). *See also 47 U.S.C. § 251*(e)(1). [**9]

8. The grants of authority herein are not intended to allow the Florida Commission to engage in number conservation measures to the exclusion of, or as a substitute for, unavoidable and timely area code relief. n20 While we are giving the Florida Commission tools that may prolong the lives of existing area codes, the Florida Commission continues to bear the obligation of implementing area code relief when necessary, and we expect the Florida Commission to fulfill this obligation in a timely manner. Under no circumstances should consumers be precluded from

receiving telecommunications services of their choice from providers of their choice for a want of numbering resources. For consumers to benefit from the competition envisioned by the Telecommunications Act of 1996, it is imperative that competitors in the telecommunications marketplace face as few barriers to entry as possible.

n20 *Pennsylvania Numbering Order* at 19027, PP26.

9. Several commenting parties urged the Commission to grant the Florida Commission's Petition in its entirety on the basis that state utility commissions require greater authority to implement number conservation measures in order to rectify the causes [**10] of area code exhaust. n21 Other parties suggested that we deny the Petition on the basis that number conservation measures must be developed at the national level, and that the Petition does not provide an adequate basis on which to grant the requested delegations of authority. n22

n21 *See* Citizens of Florida comments; Connecticut Commission comments; New York Commission comments; Pennsylvania Office of Consumer Advocate comments; Texas Commission comments; Maine Commission reply.

n22 *See* BellSouth comments; CTIA comments; Nextel comments; PCIA comments; PrimeCo comments; US West comments.

[*17510] 10. *Thousands-block number pooling.* The Florida Commission requests authority to institute thousands-block number pooling. n23 This Commission has tentatively concluded that thousands-block pooling is an important numbering resource optimization strategy, essential to extending the life of the NANP. n24 In granting the Illinois Commission the authority to engage in a mandatory thousands-block pooling trial in the *Pennsylvania Numbering Order*, this Commission recognized that state number pooling trials could aid in developing national pooling implementation, architecture, [**11] and administrative standards. The Florida Commission, noting that development of nationwide thousands-block pooling rules may take considerable time, requests the authority to implement its own thousands-block pooling requirements in advance of any federal rules. n25

n23 Historically, network routing mechanisms are based upon the understanding that geographic numbers are assigned on an NXX code basis and associated with a specific switch, and, correspondingly, that the network address to which the call must be routed is embedded in the first six digits (NPA-NXX) of the called number. Thousands-block umber pooling allows service providers in a given area to receive numbers in blocks of 1,000 by breaking the association between the NPA-NXX and the service provider to whom the call is routed. Through number pooling, participating carriers can effectively share numbering resources from NXX codes rather than receiving an entire NXX code at a time. *Numbering Resource Optimization Notice* at P130.

n24 *Numbering Resource Optimization Notice* at P138.

n25 Petition at 3.

11. Commenters representing incumbent local exchange carriers oppose permitting state utility commissions [**12] to order thousands-block pooling trials, mainly on the basis that multiple, inconsistent trials would pose an administrative burden to carriers that are present in various states. n26 Several wireless carriers have also voiced their opposition to thousands-block pooling trials based on the premise that such trials would require the implementation of local number portability (LNP). n27 Some competitive local exchange carriers and other state utility commissions have voiced their support for thousands-block pooling trials as a means to allocate numbers more efficiently and ensure that carriers are given greater access to numbering resources. n28

n26 *See* USTA comments at 7.

n27 *See* CTIA comments at 6; Omnipoint Communications comments at 8; PCIA comments at 8.

n28 *See* Connecticut Commission comments at 3; Massachusetts Commission comments at 5; MediaOne comments at 3-4; Texas Commission comments at 3.

12. We have been concerned that the existence of multiple pooling trials in a state or region may strain the capacities of carriers' Service Control Points (SCPs), n29 which could affect [*17511] the ability of carriers' networks to perform LNP and pooling functions. [**13] We note, however, that the volume of ported numbers is significantly lower than previously anticipated. n30

n29 A Service Control Point (SCP) is a database in the public switched network which contains information and call processing instructions needed to process and complete a telephone call. The network switches access an SCP to obtain such information. Telephone Number Portability, *First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, 11 FCC Rcd 8352, 8402 n.288 (1996).*

n30 A projection by the Local Number Portability Administrator, Lockheed Martin IMS, and all seven LLCs projected that over a two-year period, a total of 634,556 numbers would be ported during 1998 and 2,658,669 numbers would be ported during 1999 for a single region. Since there are seven LLCs, the total amount of ported numbers nationwide for the two years is projected to be 23.05 million. LNPA Industry Demand Model, Exhibit N-1, at 5 (1998). The actual amount of total numbers ported as of May 1999 was only 1,789,369. *See Local Competition: August 1999*, Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission. [**14]

13. Although we remain concerned about the potential strain which multiple thousands-block pooling trials in an MSA, state or region may have on the functioning of the public switched telephone network, we nonetheless believe this relief is appropriate given the strain on Florida's numbering resources. Furthermore, since the release of the *Pennsylvania Numbering Order*, the telecommunications industry has arrived at detailed guidelines governing the technical and administrative functioning of thousands-block number pooling. In the *Pennsylvania Numbering Order*, we stated that upon the establishment of uniform, national standards for pooling, we may determine that it is appropriate to delegate to state commissions the additional authority to implement and enforce those standards. n31 We therefore grant authority to the Florida Commission to conduct mandatory thousands-block number pooling trials in Florida. We agree with the concern raised by many wireline commenters, however, that inconsistent pooling trials could pose a burden to carriers. To ameliorate this concern, we direct the Florida Commission to conduct its pooling trials in accordance with industry-adopted thousands-block [**15] pooling guidelines. n32 Where the Florida Commission determines that changes, modifications, or departures from the guidelines are desirable, we direct the Florida Commission to consult with the industry prior to implementing such changes. Although we will not dictate the manner in which the Florida Commission should consult with industry, the Florida Commission should at a minimum, seek input from the industry regarding the implications of any proposed changes to the guidelines so that the Florida Commission may be able to weigh the industry's concerns in its decision-making process.

n31 *Id.* at 19028, P28.

n32 Thousand Block (NXX-X) Pooling Administration Guidelines, Draft (INC 99-0127-023) (rev. Jan. 27, 1999) (Thousand Block Pooling Guidelines). This document is available at <http://www.atis.org/atis/clc/inc/incdocs.htm>.

14. We grant this authority subject to the conditions and safeguards similar to those enumerated in the *Pennsylvania Numbering Order* that granted such authority to Illinois. n33 Thus, we require that in any NPA which is in jeopardy in which the Florida Commission implements a pooling trial, the Florida Commission must take all necessary steps to [**16] prepare an NPA relief plan that may be adopted by the Florida Commission in the event that numbering resources in the NPA at issue are in imminent danger of being exhausted. n34 This criterion is not intended to [*17512] require the Florida Commission to implement an NPA relief plan prior to requiring thousands-block number pooling in Florida. Rather, we require only that the Florida Commission be prepared to implement a "back-up" NPA relief plan prior to the exhaustion of numbering resources in the NPA at issue. n35 Consumers should never be in the position of being unable to exercise their choice of carrier because that carrier does not have access to numbering resources. This criterion attempts to ensure that consumers continue to retain a choice of telecommunications providers in the event that the pooling trial or trials do not stave off the need for area code relief.

n33 *Pennsylvania Numbering Order* at 19029-30, P30.

n34 In Illinois, the Illinois Commission recognized a "back-up plan" was necessary because the pooling solution had not been completely developed or tested. Thus, it ordered that an all-services overlay would supersede the pooling trial in the event that the NXXs in the 847 NPA were depleted. *Id.* [**17]

n35 *See* Petition by Citizens Utility Board to Implement a form of telephone number conservation known as number pooling within the 312, 773, 847, 630, and 708 area codes and Petition by Illinois Bell Telephone Company for Approval of an NPA Relief Plan for the 847 NPA, Docket Nos. 97-0192 and 97-0211 (Consol.),*Order* (May 11, 1998) (establishing an area code overlay as a back-up plan concurrently with ordering thousands-block pooling in the 847 NPA). Although the Illinois Commission had an NPA relief plan in place in the 847 NPA to relieve what it had forecast to be imminent exhaust, through number conservation measures, including thousands-block pooling, it has forestalled the need for area code relief. *See* Petition of the Illinois Commerce Commission for Expedited Temporary Waiver of 47 C.F.R. § 52.19(c)(3)(ii) at 2-3 (filed August 11, 1999).

15. Only those carriers that have implemented permanent LNP shall be subject to the trial. n36 At the present time, we do not grant the Florida Commission the authority to require a carrier to acquire LNP solely for the purpose of being able to participate in a thousands-block pooling trial. n37 Carriers are only required to [**18] implement LNP if requested by another carrier subject to the requirements established by this Commission. n38 Within NPAs that are subject to the pooling trial, non-LNP capable carriers shall have the same access to numbering resources after pooling is implemented that they had prior to the implementation of a pooling regime, *i.e.*, non-LNP capable carriers shall continue to be able to obtain full NXX codes. We recognize that conditioning the Florida Commission's authority to implement a mandatory thousands-block pooling trial on exemption of non-LNP capable carriers from participation in the trial will create a disparity in the way different types of service providers obtain access to numbering resources, in tension with the criteria set forth above. n39 In order to ensure that consumers may continue to obtain service from non-LNP capable carriers of their choosing, however, we find that for the [*17513] purposes of this interim delegation, it is necessary to safeguard these carriers' access to numbering resources, while they lack the technical capability to participate in pooling. The *Numbering Resource Optimization Notice* raises a number of issues relating to non-LNP [**19] capable carriers' participation in pooling, and we believe these issues are best addressed in the larger rulemaking context. In the meantime, we suggest to the Florida Commission that it urge the non-LNP capable carriers to use various other numbering resource optimization strategies such as those discussed in the *Numbering Resource Optimization Notice* to improve the efficiency of numbering resources assigned to such carriers.

n36 Wireless carriers are not require to implement LNP until November 2002, or until this Commission releases an order establishing requirements for wireless carriers' participation in number pooling in the *Numbering Resource Optimization* docket. *See* Cellular Telecommunications Industry Association's Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability, *Memorandum Opinion and Order, WT Docket No. 98-229 and CC Docket No. 95-116, 14 FCC Rcd. 3092, 3116 P48 (1999).*

n37 The Florida Commission requests the authority to expand deployment of permanent LNP, but does not provide a rationale specifically supporting the request. Petition at 4. We interpret this request to be related to the Florida Commission's petition for authority to conduct thousands-block pooling trials, because requiring carriers to implement LNP has the potential to increase the number of carriers that can participate in the pooling trials. [**20]

n38 *See* 47 C.F.R. § 52.23(b)-(c).

n39 *See supra* P8.

16. We direct the Florida Commission to ensure that an adequate transition time is provided to carriers to implement pooling in their switches and administrative systems. Thousands-block pooling requires carriers to alter significantly the manner in which they account for their inventory of telephone numbers, including changing their

Operations Support Systems (OSSs) and retraining their staffs. n40 In addition, we also urge the Florida Commission not to require carriers to engage in processes related to thousands-block pooling which might divert critical resources away from preparations related to the Year 2000 rollover. n41

n40 *See* Letter from Todd D. Daubert, Counsel for Winstar, to Magalie R. Salas, Secretary, FCC, dated July 28, 1999.

n41 *See* National Association of Regulatory Utility Commissioners (NARUC), "Resolution Urging State Commissions to Consider Honoring Utility Requests to Defer Deadlines Because of Y2K Considerations," adopted July 23, 1999. *See also* Memorandum from Jacob J. Lew, Director, Chief Information Officers Council, to the heads of executive Florida Commissions and agencies, dated May 14, 1999 (requesting that federal agencies refrain from establishing requirements that would have an adverse effect on the Year 2000 readiness of regulated entities). [**21]

17. We further require that the Florida Commission determine the method to recover the costs of the pooling trials. n42 The Florida Commission must also determine how carrier-specific costs directly related to pooling administration should be recovered. n43 The Commission has tentatively concluded that thousands-block number pooling is a numbering administration function, and that section 251(e)(2) authorizes the Commission to provide the distribution and recovery mechanisms for the interstate and intrastate costs of number pooling. n44 We conclude that inasmuch as we are hereby delegating numbering administration authority to the Florida Commission, the Florida Commission must abide by the same statute applicable to this Commission, and, therefore, ensure that costs of number pooling are recovered in a competitively neutral manner. n45 We note that the *Telephone Number Portability* proceeding [*17514] found that section 251(e)(2) requires all carriers to bear the costs of number portability on a competitively neutral basis, and, thus, established a cost recovery mechanism that assesses even carriers that cannot or have not implemented LNP to date. n46 The Florida Commission [**22] may consider the recently released *Telephone Number Portability* Order for guidance regarding the criteria with which a cost recovery mechanism must comply in order to be considered competitively neutral:

> First, "a 'competitively neutral' cost recovery mechanism should not give one service provider an appreciable, incremental cost advantage over another service provider, when competing for a specific subscriber." Second, the cost recovery mechanism "should not have a disparate effect on the ability of competing service providers to earn normal returns on their investments." n47

Consistent with our treatment of cost recovery in the *Telephone Number Portability* proceeding, we believe that even those carriers that cannot participate in pooling at this time will benefit from the more efficient use of numbering resources that pooling will facilitate. We also encourage the Florida Commission to consider the "road map" provided by the *Numbering Resource Optimization Notice* regarding cost recovery for thousands-block number pooling. n48

n42 The *Numbering Resource Optimization Notice* tentatively concluded that thousands-block number pooling administration involved three categories of costs: (1) shared industry costs, which include the cost to fund the pooling administrator; (2) carrier-specific costs directly related to thousands-block pooling implementation, including, for example, costs directly related to updating carriers' LSMS to support pooling; and (3) carrier-specific costs not directly relating to thousands-block pooling implementation. *Numbering Resource Optimization Notice* at PP203-09. [**23]

n43 *See id.* at P197.

n44 *Id.* at P193.

n45 *47 U.S.C. § 251*(e)(2).

n46 Telephone Number Portability, *Third Report and Order, 13 FCC Rcd 11701, 11759 (1998).* The Commission also found that it was equitable for all telecommunications carriers, even those without end-user revenues and those not directly involved in number portability, to contribute towards LNP costs because they

will all benefit from number portability's role in increasing local competition and ameliorating number exhaust concerns by making number pooling possible. *Id.*

n47 Telephone Number Portability, *Fourth Memorandum Opinion and Order on Reconsideration*, CC Docket No. 95-116, RM 8535, FCC 99-151, at P32 (rel. July 16, 1999) (citing Telephone Number Portability, CC Docket No. 95-116, *First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8420-21 (1996)).*

n48 *Numbering Resource Optimization Notice* at PP193-210.

18. In order to minimize possible disruption and expense and maximize the value of the information that can be obtained from number pooling trials, [**24] we believe that such trials should be limited in nature. As an initial matter, we limit the authority we grant to the Florida Commission to a trial that generally covers one Metropolitan Statistical Area (MSA). n49 We believe that such a limitation strikes the appropriate balance among the Florida Commission's desire to move quickly to implement measures that will enhance number utilization efficiency, and possibly prolong the lives of certain area codes in Florida, and our obligation to ensure that such pooling trials are implemented and conducted in a manner that does not disrupt network operations or reliability. We believe these goals ultimately benefit consumers in Florida by [*17515] allowing the Florida Commission to move forward with pooling trials quickly in whatever area it determines it is most necessary, while providing some assurance that the network changes required for the trials are implemented in a manner that does not disrupt the normal functioning of the network in Florida and nationwide.

n49 MSAs are geographic areas designated by the Bureau of Census for purposes of collecting and analyzing data. The boundaries of MSAs are defined using statistics that are widely recognized as indications of metropolitan character. See Policy and Rules Concerning Rates for Dominant Carriers, *Memorandum Opinion and Order*, CC Docket No. 87-313, FCC 97-168 (rel. May 30, 1997) at 17 n.26. When implementing LNP, the Commission established a phased implementation schedule based on MSAs. Telephone Number Portability, *First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, RM 8535, 11 FCC Rcd 8352, 8394-95, P81 (1996)* [**25]

19. After having implemented a thousands-block number pooling trial in one MSA, the Florida Commission may wish to expand to another MSA. n50 Should it wish to do so, we direct the Florida Commission to allow sufficient transition time for carriers to undertake any necessary steps, such as modifying databases and upgrading switch software, to prepare for an expansion of thousands-block pooling to another MSA. n51 In other words, start dates for thousands-block pooling trials in different MSAs should be appropriately staggered to permit the industry to undertake all necessary steps. The purpose of a staggered roll-out is to provide carriers time to upgrade or replace their SCPs and other components of their network, as necessary, if the increased volume of ported numbers as a result of the pooling trial requires them to do so.

n50 A thousands-block pooling trial is implemented when LNP-capable carriers are contributing and receiving numbers in blocks of 1,000 from the pool. Furthermore, for a pooling trial to have been implemented, a pooling administrator must be chosen and responding to requests from carriers for numbering resources.

n51 *See* Letter from Todd D. Daubert, Counsel for Winstar, to Magalie R. Salas, Secretary, FCC, dated July 28, 1999 (detailing concerns with expanding the thousands-block pooling trial in Illinois to other NPAs, and noting that Winstar requires approximately 90 days to prepare its OSS systems for new pooling markets). [**26]

20. We suggest to the Florida Commission that it consider concentrating its thousands-block pooling trial in those NPAs which are the best candidates for pooling, based on the considerations set forth in the *Numbering Resource Optimization Notice.* n52 For example, we encourage the Florida Commission to consider number pooling in areas where multiple, LNP-capable carriers exist. We also suggest to the Florida Commission that it allow for exceptions to participating in a pooling trial, if doing so would prove prohibitively expensive to a particular carrier. For example, certain switch types may not be able to accommodate thousands-block number pooling. n53 Finally, as we stated in the *Numbering Resource Optimization Notice*, we encourage the Florida Commission, to the extent it has not already done so, to consider consolidating rate centers prior to implementing pooling. n54 Fewer, larger pools logically increase the effectiveness of thousands-block pooling. n55

n52 *Numbering Resource Optimization Notice* at PP148-53.

n53 *See id.* at P149.

n54 *See id.* at P151.

n55 *See id.*

21. We reiterate that the authority we grant herein to the Florida Commission [**27] to undertake thousands-block pooling trials is interim in nature, and is in no way intended to relieve the Florida Commission of its obligation to implement necessary area code relief in a timely fashion. Whatever decisions this Commission reaches with regard to thousands-block pooling [*17516] administration and guidelines will supersede whatever systems the Florida Commission puts in place prior to enactment of those rules.

22. *Reclamation of unused and reserved NXX codes.* The Florida Commission also requests the authority to reclaim unused and reserved NXX codes in Florida, noting that the possibility of reclaiming reserved NXX codes for future distribution could extend the lives of existing area codes. n56 The CO Code Assignment Guidelines provide that carriers shall activate NXXs within six months of the "initially published effective date." n57 Most commenters support the reclamation of unused codes, n58 and those opposed to this delegation are not necessarily opposed to reclaiming unused codes in general, but rather assert that the NANPA is responsible for reclamation activities. n59 Reclaiming NXX codes that are not in use may serve to prolong the life of an area code, [**28] because these codes are added to the total inventory of assignable NXX codes in the area code. Therefore, we grant authority to the Florida Commission to investigate whether code holders have activated NXXs assigned to them within the time frames specified in the CO Code Assignment Guidelines, and to direct the NANPA to reclaim NXXs that the Florida Commission determines have not been activated in a timely manner. This authority necessarily implies that the Florida Commission may request proof from all code holders that NXX codes have been "placed in service" according to the CO Code Assignment Guidelines. n60 We further direct the NANPA to abide by the Florida Commission's determination to reclaim an NXX code if the Florida Commission is satisfied that the code holder has not activated the code within the time specified by the CO Code Assignment Guidelines.

n56 Florida Petition at 4.

n57 *See* Central Office Code (NXX) Assignment Guidelines, INC 95-0407-008 (rev. Apr. 26, 1999) at § 6.3.3 (CO Code Guidelines). This document is available at <http://www.atis.org/atis/clc/incdocs.htm>.

n58 Connecticut Commission comments at 3; Level 3 comments at 2-3; MediaOne comments at 6. [**29]

n59 AT&T comments at 12; GTE comments at 9; MCI WorldCom comments at 9.

n60 Under the CO Code Assignment Guidelines, carriers are obligated to submit to the NANPA within six months of the requested effective date of newly obtained NXX codes a Part 4 certification that the code has been placed in service. *See* CO Code Assignment Guidelines NXX Assignment Request Form, Part 4.

23. We note that the CO Code Assignment Guidelines dictate substantial procedural hurdles prior to reclaiming an unused NXX, in part to afford the code holder an opportunity to explain the circumstances that have led to a delay in code activation. n61 New entrants, in particular, may suffer unexpected delays or scheduling setbacks beyond their control, which lead to code activation delays. n62 We clarify that the Florida Commission need not follow the [*17517] reclamation procedures set forth in the CO Code Assignment Guidelines relating to referring the issue to the Industry Numbering Committee (INC), as long as the Florida Commission accords the code holder an opportunity to explain the extenuating circumstances, if any, behind the unactivated NXX codes.

n61 For example, the CO Code Guidelines dictate that the CO Code Administrator must refer to the INC for resolution of any matter relating to an NXX code that has not been activated within the timeframe specified in the guidelines. CO Code Assignment Guidelines at § 8.2.2. The INC must then investigate the referral and

attempt to resolve the referral. CO Code Assignment Guidelines at § 8.3. Absent consensus resolution, the matter is then referred to the "appropriate regulatory body" for resolution. *Id.* [**30]

n62 *See* Level 3 comments at 2-3 (stating that carriers should not be forced to return unused NXX codes prematurely if business plans call for their use in the foreseeable future); MediaOne comments at 6 (stating that CLECs that obtain codes prior to launching service must have the flexibility to activate initial codes while in the process of rolling out telephony throughout the state).

24. Reclamation of blocks of 1,000 numbers with no contamination, or a relatively low contamination rate, has the potential to add significant numbering resources in areas where thousands-block number pooling has been implemented. n63 To the extent we have delegated the authority to initiate thousands-block number pooling trials, we also delegate authority to the Florida Commission to reclaim unused thousands blocks in connection with such trials. The conditions that apply to the implementation of a thousands-block number pooling trial shall also apply to any reclamation of unused blocks of numbers. In particular, the industry's guidelines regarding reclamation of thousands blocks shall apply to the Florida Commission. n64

n63 *Numbering Resource Optimization Notice* at P187.

n64 *See* Thousand Block Pooling Guidelines at § § 8.1.4-8.1.5 (specifying only that blocks with less than ten percent contamination shall be donated to the industry pool of thousands blocks). [**31]

25. *Maintenance of rationing procedures for six months following area code relief.* The Florida Commission requests the authority to maintain current NXX code rationing measures for six months following area code relief. n65 It states that this authority would be used to control the accelerated demand for NXX codes in the relieved area code that accompanies the announcement of an area code relief plan. n66

n65 Petition at 4.

n66 *Id.*

26. Although most industry parties are opposed to granting an extension of rationing procedures because it delays needed area code relief and thereby inhibits carriers' ability to obtain numbering resources with which to serve customers, n67 there is a competitive LEC that contends that allowing an additional six months of rationing would not cause undue harm to any carrier. n68

n67 AT&T comments at 10-1; MCI WorldCom comments at 9-10; MediaOne comments at 7; Sprint comments at 6-7; USTA comments at 6.

n68 Level 3 comments at 4.

27. The *Pennsylvania Numbering Order* stated that state commission implementation of number conservation measures could not be used "as substitutes for area code relief or to avoid making difficult and [**32] potentially unpopular decisions on area code relief." n69 Requesting a continuation of rationing after area code relief has been implemented does not contradict the [*17518] *Pennsylvania Numbering Order*, as the requisite area code relief has, in fact, been implemented. This measure seeks only to provide "breathing room" to state commissions that have just undergone the difficult process of implementing a new area code. Furthermore, a limitation of six months does not have the potential-in contrast to rationing prior to area code relief-to forestall area code relief indefinitely.

n69 *Pennsylvania Numbering Order* at 19027, P26.

28. Where area code relief takes the form of an area code split, we grant the Florida Commission the authority to direct that whatever rationing plan was in place prior to area code relief continue to be applied in both the newly implemented area code and the relieved area code for a period of up to six months following the area code relief date.

n70 Correspondingly, if the area code relief is in the form of an overlay, the Florida Commission may direct that the pre-existing rationing plan be applied to both the overlay code and the relieved code [**33] for a period of six months following the area code relief date. For reasons discussed in paragraph 38 below, we limit this authority to continuing the pre-NPA relief rationing procedures. Whether the rationing plan in place prior to relief was an industry consensus plan, or whether it was a state commission-ordered plan, only those terms in place prior to area code relief may remain in place for up to six months following area code relief. The Florida Commission may order a continuation of rationing for up to six months, but neither the Florida Commission, nor the telecommunications industry participants in a consensus plan may alter the terms of the rationing plan. We find this limitation appropriate to prevent a potentially contentious re-opening of the terms of a previously settled code rationing plan, resulting in uncertainty and a drain on resources.

n70 The "NPA relief date" is defined in the NPA Code Relief Planning and Notification Guidelines as the date by which the NPA is introduced and routing of normal commercial traffic begins. NPA Code Relief Planning and Notification Guidelines at 14.0.

29. *Setting NXX code allocation standards.* The Florida Commission requests [**34] that this Commission direct the NANPA to establish code allocation standards to manage numbering resources more efficiently. n71 In the context of the *Numbering Resource Optimization* proceeding, we may in the future establish code allocation standards that differ from the months-to-exhaust standard that currently exists. n72 We agree with the Florida Commission that extension of this authority to non-jeopardy NPAs will encourage more efficient use of NXX codes. n73 Subject to the conditions set forth below, we hereby delegate authority to the Florida Commission to require NXX code applicants to demonstrate that they have met certain fill rates prior to obtaining additional numbering resources, even in NPAs which are not in jeopardy. n74 [*17519] Specifically, the Florida Commission may require that carriers achieve a certain fill rate in growth NXX codes n75 and within thousands blocks, in areas where it has implemented thousands-block pooling.

n71 Petition at 5.

n72 *See Numbering Resource Optimization Notice* at PP??-??

n73 *See* Petition at 5.

n74 The *Pennsylvania Numbering Order* invited states to consider imposing usage thresholds on carriers before obtaining NXX codes within the same rate center in jeopardy situations subject to state-ordered NXX code rationing plans. *Pennsylvania Numbering Order* at 19025-26, P24. An area code jeopardy situation exists when the forecasted demand for numbering resources exceeds the known supply during the planning and implementation interval for relief in the form of the introduction of a new area code. *See* CO Code Assignment Guidelines at § 13.0. [**35]

n75 A "growth" code is an additional NXX code requested for an established switching entity, point of interconnection, or rate center when the telephone numbers available for assignment in previously assigned NXX codes will not meet expected demand. CO Code Guidelines at § 13.0. An "initial" code is the first NXX code assigned to the carrier at a new switching entity, POI or unique rate center, and the administrator is to assign initial codes to the extent required to terminate traffic. *Id.*

30. Notwithstanding this grant of authority to the Florida Commission, we remain very concerned about the potential competitive impact of imposing a fill-rate regime on carriers' ability to serve customers. A strict fill-rate regime may not accommodate customers' requests for specific numbers or specific ranges of numbers. This concern and others about the use of fill rates as opposed to the industry's current "months-to-exhaust" model are set forth in the *Numbering Resource Optimization Notice.* n76 In this light, although we do not wish to dictate the parameters of the fill-rate regime, we urge the Florida Commission to allow for some flexibility in establishing fill rates and applying [**36] them to carriers. Our primary concern, therefore, is that fill rates not be applied in such a manner as to deprive customers of their choice of carriers from whom to purchase service upon request.

n76 *Numbering Resource Optimization Notice* at PP62-68.

31. We are also concerned about the impact of multiple, disparate number conservation regimes on the availability of telecommunications services and the industry's ability to forecast and plan properly for exhaust of the NANP. n77 Therefore, during its implementation of this authority, we ask that the Florida Commission consult and coordinate with other state commissions that may obtain authority to impose fill rates. n78 We encourage the Florida Commission to establish fill rates that are not inconsistent with those imposed by other states.

n77 *See Pennsylvania Numbering Order* at 19019-20, P15.

n78 *See* Common Carrier Bureau Seeks Comment on State Utility Commission Requests for Additional Authority To Implement Telecommunications Numbering Conservation Measures, *Public Notice*, NSD File Nos. L-98-136, L-99-19, L-99-21, L-99-27, L-99-33, DA 99-1198 (rel. June 22, 1999) (California, Florida, Maine, Massachusetts, New York); Common Carrier Bureau Seeks Comment on the Texas Public Utility Commission Petition for Delegation of Additional Authority to Implement Number Conservation Measures, *Public Notice*, NSD File No. L-99-55, DA 99-1380, (rel. July 14, 1999); Common Carrier Bureau Seeks Comment on the Connecticut Department of Public Utility Control's Petition for Delegation of Additional Authority to Implement Area Code Conservation Measures, *Public Notice*, NSD File No. L-99-62, DA 99-1555 (rel Aug. 5, 1999). [**37]

32. Despite these concerns, we recognize the need to address the critical situation in Florida. In setting certain guidelines for the Florida Commission to follow, we hope to allay concerns about possible competitive impacts, while enabling the Florida Commission to adopt a quantifiable means of ensuring that carriers are using their numbers with maximum efficiency.

33. First, the Florida Commission may only consider a carrier's fill rate in relation to growth codes. We do not believe that a carrier's ability to establish a service "footprint" should [*17520] be restricted. That is, a carrier ought to be able to obtain initial numbering resources in rate centers where the carrier is authorized to offer service and plans to do so within the NXX activation timeframe established by the CO Code Assignment Guidelines (six months). We wish to avoid imposing barriers to competitive entry into the telecommunications marketplace. A carrier that is newly providing service may not be able to achieve a prescribed fill rate in an NXX code (or thousands-block, if the numbering request is in an area where the Florida Commission has instituted thousands-block number pooling) for quite some time. [**38] With respect to fill rates, however, we conclude that the importance of bringing choice to consumers outweighs the numbering inefficiencies experienced by new entrants.

34. Second, as stated in the *Pennsylvania Numbering Order*, we are concerned that granting this request and other, similar requests will overburden the NANPA, which based its bid for providing number administration services on industry guidelines that are applicable nationwide. n79 Therefore, to avoid imposing an additional burden on the NANPA, to the extent that the Florida Commission chooses to implement a fill-rate requirement, we delegate authority to the Florida Commission to ascertain carrier compliance with the fill-rate requirement. To avoid delay in NXX code application processing, we direct the Florida Commission to conduct its review of carrier compliance with any required fill rate within the ten-day timeframe established by the CO Code Assignment Guidelines as the time in which the NANPA must respond to an applicant's NXX code request. Of course, a carrier's failure to provide the Florida Commission with adequate evidence of compliance with the fill-rate requirement upon request will toll the running [**39] of this 10-day timeframe. Further, while we delegate to the Florida Commission the authority to request and evaluate information provided by carriers to demonstrate compliance with the fill rate, we request that the Florida Commission not release such information to any entity other than the NANPA, this Commission, or the Common Carrier Bureau.

n79 *See Pennsylvania Numbering Order* at 19031-32, P33 (finding that if every state commission implemented its own NXX code administration measures, the NANPA would have the potentially impossible task of performing its code administration and NPA relief planning functions in a manner consistent with industry guidelines and fifty-one different state regimes).

35. The Florida Commission also requests that it be allowed to use the Line Number Utilization Survey (LINUS) n80 to run NXX code reports quarterly, that the FCC direct the NANPA to update the COCUS quarterly, and that the FCC direct wireless carriers to provide necessary telephone number utilization information at the thousands-block level. n81 In the *Numbering Resource Optimization Notice*, this Commission sought public comment on both the frequency and the level of detail [**40] in which carriers should report data relating to their utilization of numbering resources. n82 Thus, at this time we decline to grant the Florida Commission the [*17521] authority to direct the NANPA to use LINUS in Florida and to direct the NANPA to update the COCUS quarterly. Nonetheless, we recognize the desire of the Florida Commission to obtain information relating to carriers' utilization of numbering resources both to aid it in planning for area code relief and for investigating the feasibility of thousands-block number pooling.

n80 The NANPA has proposed replacing the current COCUS with the LINUS. LINUS would conduct a survey of forecast data quarterly at the rate center level. Utilization data would be collected at the thousands-block level by rate center, quarterly in the largest 100 MSAs, and semiannually in the remaining MSAs. Also, collection of utilization data collection would occur more often in NPAs that are nearing jeopardy.

n81 Petition at 5-6.

n82 *Numbering Resource Optimization Notice* at PP76-77.

36. We therefore delegate to the Florida Commission the authority to conduct number utilization surveys from all carriers in order to help it plan area [**41] code relief projects and to determine the feasibility of pooling scenarios. n83 We reiterate, however, that because this is a topic of the *Numbering Resource Optimization Notice*, this grant of authority is limited in duration until such time as this Commission enacts rules or policies relating to collecting data on carriers' use of numbering resources. n84 We do not authorize the Florida Commission to direct the NANPA to undertake such surveys as part of its required functions. n85

n83 *See* Petition at 5-6.

n84 *See Numbering Resource Optimization Notice* at PP69-82.

n85 The Florida Commission, however, may negotiate with the NANPA to perform such surveys as optional enterprise services. *See* 47 C.F.R. 52.12(f)(2).

37. *NXX code sharing.* The Florida Commission also requests the authority to "implement sharing of NXX codes in rate centers." n86 The Florida Commission has not provided any details with regard to how it would implement NXX code sharing, nor do there exist any industry guidelines on this numbering optimization measure. As we stated in the *Numbering Resource Optimization Notice*, we are interested in the possibility of NXX code sharing as a [**42] means to enable non-LNP-capable carriers to participate in or approximate the effect of pooling without requiring them to develop LNP capability. n87 We note that the Colorado Public Utilities Commission has studied NXX code sharing as a number optimization method, n88 and we encourage the Florida Commission to consult with members of the Colorado Commission and other state commissions, who may be familiar with this issue. We therefore encourage the Florida Commission to conduct a study regarding the technical and economic feasibility of NXX code sharing, its implications for the delivery of emergency services, and network impacts of NXX code sharing in Florida. We also encourage the Florida Commission to keep us informed of the results of its investigation on NXX code sharing. We permit the Florida Commission to implement NXX code sharing on a trial basis if the Florida Commission finds that NXX code sharing is technically and economically feasible, as well as cost effective.

n86 Petition at 3.

n87 See Numbering Resource Optimization Notice at P175.

n88 *See* Colorado Telephone Numbering Task Force Report, December 31, 1998.

38. *Rate Center Consolidation.* The Florida [**43] Commission also requests the authority to consolidate rate centers. Rate center consolidation involves creating larger geographic areas in which individual NXX codes can be used by consolidating or combining existing rate centers. Because many carriers, particularly competitive local exchange

carriers, require NXX codes in [*17522] most or all rate centers in an NPA to establish a competitive "footprint," establishing larger rate centers has significant potential to reduce the demand for NXX codes. n89 Rate center consolidation, as it involves matters relating to local calling scopes and local call rating, falls under state utility commissions' rate-making authority. n90 However, since rate center consolidations have the potential to increase the efficiency of utilization of numbering resources over which we have plenary jurisdiction, we grant the Florida Commission's request for any additional authority it may need to consolidate rate centers since such consolidations will aid the Commission's efforts in optimizing the use of numbering resources.

n89 *Numbering Resource Optimization Notice* at P106.

n90 *See* NANC Report Public Notice at 3.

39. *Revision of rationing* [**44] *procedures*. The Florida Commission has also sought the authority to revise rationing procedures now in effect expressly for the purpose of prolonging the lives of existing area codes. n91 Although the Florida Commission may order and revise rationing processes where it has ordered area code relief, established a relief date, and the industry has been unable to reach consensus on a rationing plan, n92 rationing of NXX codes should only be for the express purpose of extending the life of the area code until the date of area code relief implementation. n93 As determined in the *Pennsylvania Numbering Order*, state commissions may not use rationing as a substitute for area code relief. n94 We believe that the authority we are herein delegating to the Florida Commission will provide the Florida Commission the tools it needs to address the underlying behaviors contributing to the inefficiencies of numbering use in Florida. We hope that the Florida Commission's judicious exercise of these measures will, indeed, extend the lives of the area codes at issue in the Petition, as well as whatever new area codes might be introduced in Florida, and we invite the Florida Commission to keep this [**45] Commission apprised regarding the efficacy of these measures. Accordingly, at this time, we decline to reach the Florida Commission's request for authority to revise rationing plans put into place pursuant to industry consensus.

n91 According to the Florida Commission, 6 NXX codes are being rationed each month in the 508 and 617 area codes, 8 are being rationed monthly in the 781 area code, and 10 are being rationed in the 978 area code. Petition at 8.

n92 *See Pennsylvania Numbering Order* at 19026-27, P25

n93 *Id.* at 19038-39, P48.

n94 *See id.* at 19027, P26.

40. *NXX code lotteries prior to adoption of area code relief plans*. The Florida Commission also seeks similar authority to institute NXX code lotteries prior to adopting NPA relief plans. n95 For the reasons stated above, we decline to grant the Florida Commission the broad authority it seeks to adopt rationing measures prior to having decided on a specific plan for area code relief. n96 Again, we believe that the authority we are herein delegating to the Florida [*17523] Commission will provide it with the tools it needs to address the underlying behaviors contributing to the inefficiencies of [**46] numbering use in Florida.

n95 Petition at 3.

n96 Although we granted this authority to the California Commission, we note that unique circumstances exist in California which require public participation in the area code relief planning process at least 30 months prior to the submission of a recommended relief plan to the California Commission. *See* § 7930 of the California Public Utilities Code.

41. *Unassigned Number Porting*. The Florida Commission requests the authority to implement Unassigned Number Porting (UNP) as an additional tool to conserve numbering resources. n97 As described in the 1998 NANC Numbering Resource Optimization Report (NANC Report), UNP is a telephone number usage optimization measure where available individual telephone numbers in one service provider's inventory are ported, using LNP, to another service provider under the direction of a neutral third party coordinator for assignment by the second service provider to a specific customer. n98 The NANC Report focused on the use of UNP in extreme cases of number shortages, where

individual service providers are otherwise completely unable to obtain telephone number to serve customers. n99 The Florida [**47] Commission has not provided us with information relating to the details of the proposed use of UNP in Florida.

n97 Petition at 4-5.

n98 NANC Report at § 6.1.1.

n99 NANC Report at § 6.1.1.

42. We agree with most of the industry commenters that UNP is currently at too early a stage of development to order implementation. n100 We are also concerned with the impact of UNP on carriers' ability to control their own number inventories. With UNP, because service providers will obtain telephone numbers from other service providers' inventories, the service provider donating numbers may face difficulty forecasting future numbering needs. n101 The NANC Report indicates that many companies' OSSs are designed to accommodate large inventories of telephone numbers, linking each street address to an NPA/NXX combination. If UNP leads to significant number porting, this mapping logic becomes quite difficult to support. n102 We are also concerned with UNP's potential impact on companies' switching systems. UNP may cause problems with switches that can only accept a limited number of NXX [*17524] codes, as number inventories will be increasingly composed of random telephone numbers from [**48] many different NXX codes. n103 For the aforementioned reasons, we decline to grant the Florida Commission's request for authority to implement UNP.

n100 AT&T comments at 12 (stating that UNP is undeveloped and cannot be implemented in any meaningful way, but it may be appropriate to revisit the issue of whether a state-ordered UNP trial is appropriate following successful implementation of thousands-block pooling); Bell Atlantic comments at 4 (stating that implementing UNP with nationwide implementation of thousands-block pooling would only complicate and delay thousands-block pooling); MediaOne comments at 8-9 (stating that UNP puts a carrier at the mercy of its competitors to satisfy numbering requirements); RCN comments at 8 (stating that national standards are necessary for implementation of UNP); USTA comments at 9 (stating that implementing UNP anywhere would divert essential industry resources from the resolution of issues associated with thousands-block number pooling). *See also* California Commission comments at 13 (noting that more information is needed as to how UNP would work, and urging this Commission to address and resolve the issue).

n101 NANC Report at § 6.6.2. [**49]

n102 NANC Report at § 6.6.3.

n103 NANC Report at § 6.6.4.1.

43. We emphasize, however, that our determination not to grant the Florida Commission the authority to order carriers to use UNP does not preclude carriers from voluntarily engaging in UNP where mutually agreeable and where there are no public safety or network reliability concerns. As a matter of fact, we encourage the carriers to do so. Furthermore, we also encourage the Florida Commission to and the carriers to work together to identify and promote other innovative measures as well that would encourage the conservation of NXX codes.

IV. CONCLUSION

44. We recognize the difficult situation for consumers in Florida, having had to undergo several area code changes in only a few years, with the potential for more on the near horizon. The authority we have herein delegated to the Florida Commission, we hope, will provide it the tools it needs to address the situation. For example, the authority to order thousands-block pooling trials allows the Florida Commission to address inefficiencies on the supply side of the telephone number assignment regime by ordering that LNP-capable carriers receive smaller blocks of [**50] numbers than they now do. The authority to address carriers' fill rates allows the Florida Commission to address the demand side

of the number assignment regime by requiring that carriers not request more numbering resources until they have used a certain percentage of those already in their inventory.

V. ORDERING CLAUSE

45. Accordingly, pursuant to sections 1, 4(i), and 251 of the Communications Act of 1934, as amended, *47 U.S.C. § § 151,* 154(i), and 251, and pursuant to sections 1.1 and 52.9(b) of the Commission's Rules, 47 C.F.R. § § 1.1 and 52.9(b), IT IS ORDERED that the Florida Public Service Commission's Petition to Federal Communications Commission for Expedited Decision for Grant of Authority to Implement Number Conservation Measures is GRANTED IN PART and DENIED IN PART to the extent described herein.

Magalie Roman Salas

Secretary

LEXSEE 15 FCC RCD 7574

In the Matter of Numbering Resource Optimization

CC Docket No. 99-200

FEDERAL COMMUNICATIONS COMMISSION

15 FCC Rcd 7574; 2000 FCC LEXIS 1691; 20 Comm. Reg. (P & F) 1

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ACTION: [**1] REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULE MAKING

JUDGES:

By the Commission: Commissioners Ness and Furchtgott-Roth issuing separate statements

OPINION:

[*7577] **I. INTRODUCTION**

1. Section 251(e) of the Communications Act of 1934 (Communications Act), as amended, grants this Commission plenary jurisdiction over the North American Numbering Plan (NANP) and related telephone numbering issues in the United States. n1 In fulfilling this statutory mandate, we have identified two primary goals. One is to ensure that the limited numbering resources of the NANP are used efficiently, to protect customers from the expense and inconvenience that result from the implementation of new area codes, some of which can be avoided if numbering resources are used more efficiently, and to forestall the enormous expense that will be incurred in expanding the NANP. n2 The other goal is to ensure that all carriers have the numbering resources they need to compete in the rapidly growing telecommunications marketplace.

n1 Pub. L. No. 104-104, 110 Stat. 56 (1996 Act). The 1996 Act amended the Communications Act of 1934, *47 U.S.C. § § 151*-174. *47 U.S.C. § 251*(e)(1) provides:

> The Commission shall 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.

[**2]

n2 The NANP was established in the early 1940s, when American Telephone and Telegraph (AT&T) realized that there was a need to ensure that the expansion of long distance calling would be guided by principles consistent with the ultimate incorporation of all public switched telephone networks into an integrated nation-wide network. The NANP is the basic numbering scheme for the telecommunications networks located in

Attachment 2

Anguilla, Antigua, Bahamas, Barbados, British Virgin Islands, Canada, Cayman Islands, Dominica, Dominican Republic, Grenada, Jamaica, Montserrat, St. Kitts & Nevis, St. Lucia, St. Vincent, Turks & Caicos Islands, Trinidad & Tobago, and the United States (including Puerto Rico, the U.S. Virgin Islands, Guam and the Commonwealth of the Northern Mariana Islands). Under the plan, the United States and Canada were divided into eighty-three "zones," each of them identified by three digits. Within each zone, a central office was represented by another three-digit code. The original zones are now referred to as Numbering Plan Areas (NPAs), and the three digits representing those areas are referred to either as Numbering Plan Area codes or area codes. The three digits representing central offices are called central office codes. The central office code is used for routing calls and for rating and billing calls. A carrier must obtain a central office code for each rate center in which it provides service in a given area code. All public network facilities and private network facilities (such as private branch exchange systems) are designed and programmed to be consistent with the NANP scheme. [**3]

2. The rapid growth of competition and the proliferation of new telecommunications services over the past several years have intensified the challenge that we face to meet our responsibilities as the guardian of numbering resources in the United States. Today, an examination of the rapid rate at which new area codes are being assigned reveals the near-crisis state of the NANP. Just since the release of the *Numbering Resource Optimization Notice of Proposed Rulemaking (Notice)* almost ten months ago, 24 new area codes have been assigned in geographic areas around the country. n3 According to the North American Numbering Plan Administrator's (NANPA) most recent projections, 47 area codes will exhaust by the end of the [*7578] year 2000, unless something is done to slow down the rate at which central office codes (or NXXs) in those areas are being assigned to carriers. n4

n3 *See* Numbering Resource Optimization, *Notice of Proposed Rulemaking, 14 FCC Rcd 10322 (1999) (Notice)*.

n4 "Central office code" or "NXX code" refers to the second three digits (also called digits D-E-F) of a ten-digit telephone number in the form NPA-NXX-XXXX, where N represents any one of the numbers 2 through 9 and X represents any one of the numbers 0 through 9. 47 C.F.R. § 52.7(c). [**4]

3. The rapid depletion of numbering resources nationwide and the potential it creates for NANP exhaust are national problems that must be dealt with at the federal level. We recognize, however, that the states have an important role in the management of our numbering resources and we intend to continue working with them to implement a national numbering resource optimization framework. In creating national standards to address numbering resource optimization, we have sought to balance the need for national prioritization and policy making with practical concerns. Thus, in implementing the optimization measures discussed herein, we seek to: (1) minimize the negative impact on consumers of premature area code exhausts; (2) ensure sufficient access to numbering resources for all service providers to enter into or to compete in telecommunications markets; (3) avoid, at least delay, exhaust of the NANP and the need to expand the NANP; (4) impose the least societal cost possible, and ensure competitive neutrality, while obtaining the highest benefit; (5) ensure that no class of carrier or consumer is unduly favored or disfavored by our optimization efforts; and (6) minimize the incentives [**5] for carriers to build and carry excessively large inventories of numbers. n5

n5 *Notice, 14 FCC Rcd at 10326.*

4. As a starting point, we comprehensively address and resolve two of the major factors that contribute to numbering resource exhaust as identified in the *Notice*: the absence of regulatory, industry or economic control over requests for numbering resources, which permits carriers to abuse the allocation system and stockpile numbers, and the allocation of numbers in blocks of 10,000, irrespective of the carrier's actual need for new numbers. n6 In initially concentrating on these two areas, we do not intend to abandon our examination of those optimization measures not specifically addressed in this *Report and Order*. To the contrary, we intend to pursue all viable methods available to us to increase the life of each area code and of the NANP as a whole and to forestall, as long as possible, the need for area code relief and ultimately for the expansion of the NANP. n7 We first focus on the above-noted measures because we are convinced that they can be implemented quickly and will produce immediate and measurable results. We intend to [**6] address the remaining issues discussed in the *Notice* as well as the additional issues raised in the attached *Further Notice of Proposed Rulemaking (Further Notice)* in subsequent orders as expediently as possible.

n6 *Id. at 10328-29.*

n7 NANP expansion will not only be very costly, but will change local and long distance dialing patterns by increasing the number of digits that must be dialed to place calls.

5. In this *Report and Order*, we adopt administrative and technical measures that will allow us to monitor more closely the way numbering resources are used within the NANP. These measures will promote more efficient allocation and use of NANP resources by tying a [*7579] carrier's ability to obtain numbering resources more closely to its actual need for numbers to serve its customers. Specifically, we adopt a mandatory utilization data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and incentives to use numbers efficiently. In addition, we adopt a single system for allocating numbers in blocks [**7] of 1,000, rather than 10,000, wherever possible ("thousands-block number pooling"), and establish a plan for national rollout of thousands-block number pooling. We also establish a framework for the selection of a thousands-block Pooling Administrator. In this *Report and Order*, we implement section 251(e)(2) with regard to numbering administration, adopt cost recovery principles that are similar to those established for number portability, and seek further comment on which costs are eligible for recovery as carrier-specific incremental costs of thousands-block number pooling. Furthermore, we adopt numbering resource reclamation requirements to ensure the return of unused numbers to the NANP inventory for assignment to other carriers. To encourage better management of numbering resources, we also mandate that carriers fill their need for numbers out of "open" thousands blocks before beginning to use numbers from new blocks to facilitate reclamation. While these new policies will, in some ways, significantly change the way that carriers request and receive numbers, we believe they also will better ensure that carriers have access to the numbering resources they need to compete in [**8] the increasingly competitive and innovative telecommunications marketplace. These measures will set the stage for the development and implementation of additional numbering resource optimization strategies.

II. BACKGROUND AND OVERVIEW

6. The rate at which existing area codes are entering a state of jeopardy and new area codes are being activated throughout North America has accelerated exponentially in the past several years. Compared to the activation of only nine new area codes in the ten-year period between 1984 and 1994, in 1997 alone, 32 new area codes were activated within the NANP. n8 This stark increase in the pace at which numbering resources are used demonstrates the proliferation of new technologies, such as wireless technologies, and competitive providers that need numbering resources to conduct their businesses. Of the 314 geographic codes assigned in the NANP, 252 serve portions of the United States. With only 618 usable area codes in the NANP, it is foreseeable that the NANP could exhaust within ten years unless measures are taken to slow the rate at which numbering resources are being used. n9 The cost of expanding the current [*7580] NANP is anticipated to [**9] be enormous, n10 and could take as long as ten years to design and implement. n11 These estimated costs are substantial, and would, we believe, significantly outweigh the cost of implementing all of the numbering resource optimization solutions adopted in this *Report and Order*. Moreover, we believe that extending the life of the NANP by as little as ten years could yield substantial benefits. n12 At the same time, estimates indicate that a relatively low percentage of individual telephone numbers are actually assigned to customers in the area codes that have gone into jeopardy. The NANPA estimates that the "fill rate," or actual assignment to subscribers of telephone numbers allocated to carriers, is between 5.7% and 52.6%, depending on the industry segment, and 34% overall industry-wide. n13 As these facts underscore, immediate and comprehensive action to make more efficient use of our numbering resources is imperative.

n8 Number Optimization Forecast and Trends, submitted by the NANPA, Lockheed Martin CIS, February 18, 1999 at 6 (Number Utilization Study). In 1996, 11 area codes were activated, and 24 were activated in 1998. Also, 22 area codes were activated in 1999. North American Numbering Plan Exhaust Studay, submitted to the NANC by the NANPA, Lockheed Martin CIS, April 22, 1999 at 2-3 (NANP Exhaust Study). [**10]

n9 NANP Exhaust Study at 2-9 and A-4. Although the time frame for NANP exhaust cannot be determined with precision, the NANPA developed two models that predict the NANP will be exhausted between 2006 and 2012. The North American Numbering Council (NANC), a federal advisory committee created to advise the

Commission on numbering matters, established an industry working group to review the NANPA's exhaust projections, concluding that using alternative, but reasonable, assumptions, NANP exhaust is likely to occur in the 2005 to 2016 time frame. Although industry experts do not universally support the NANPA's projections, there is general agreement that the expected life of the NANP is limited. We sought comments on the design and assumptions contained in the NANPA's NANP Exhaust Model, and any alternative projections of NANP exhaust, including how long it would take to develop and implement an expanded NANP. *See Notice, 14 FCC Rcd at 10337.*

n10 Expanding the NANP would entail adding one or more digits to or otherwise altering the current ten-digit numbering scheme to increase the number of available telephone numbers. Preliminary estimates place the cost of NANP expansion between 50 and 150 billion dollars. *See* NANC Meeting Minutes, February 18-19, 1999, at 13. [**11]

n11 *See, e.g.*, NANC Meeting Minutes, March 11, 1997, at 7.

n12 To develop a rough estimate of the monetary benefits that could be realized by extending the life of the existing NANP, we provide for illustrative purposes the following analysis. Assuming that the total societal cost of replacing the NANP is $ 100 billion and that the real cost of capital is 7% (the OMP prescribed discount rate), the present value of replacing the NANP in 10 years would be $ 50.8 billion. In other words, $ 50.8 billion invested today at the real cost of capital will yield $ 100 billion in ten years. If some combination of number optimization measures can extend the life of the NANP another ten years -- so that it does not have to be expanded until year 20 -- the present value of $ 100 billion would be $ 25.8 billion. This means that extending the NANP by ten years is worth $ 25 billion in today's dollars (the difference between $ 50.8 billion and $ 25.8 billion). If the NANP were to last 20 years without numbering optimization and 30 years with it, the benefits would be approximately $ 12.7 billion (the present value of $ 100 billion in 30 years is $ 13.1 billion). These estimates suggest that the benefits of numbering optimization could result in substantial cost savings to society. [**12]

n13 Number Utilization Study at 8; *see also* NANC Meeting Minutes, February 17-18, 1999.

7. Although we have delegated to the states certain elements of numbering administration, such as implementing area code relief, that are local in nature, numbering resource optimization policy is part of our role as guardian of the nationwide NANP resource. Therefore, we have worked closely with state public utility commissions, industry groups, and our advisory body, the NANC, to explore various numbering conservation and optimization methods and develop our national numbering resource optimization strategy. n14 We recognize that numbering resource optimization efforts are necessary to address the considerable burdens imposed on all entities affected by the inefficient use of numbers; thus, we have enlisted the [*7581] states to assist us in these efforts by delegating significant authority to them to implement certain measures in their local jurisdictions. In addition to the authority to implement area code relief, we have responded to requests by individual states by conditionally granting them authority to implement some of the following number conservation measures: thousands-block [**13] number pooling trials; NXX code rationing; reclamation of unused and reserved NXX codes and thousands blocks; auditing; and sequential number assignment. n15 The grants of authority to the state public utility commissions, however, were not intended to allow the state commissions to engage in number conservation measures to the exclusion of, or as a substitute for, unavoidable and timely area code relief. n16 Although we granted the state public utility commissions interim authority to institute many of the optimization measures they requested in their petitions, we did so subject to the caveat that these grants would be superseded by forthcoming decisions in this proceeding including this *Report and Order.* n17

n14 The NANC was created under the Federal Advisory Committee Act, *5 U.S.C. App 2* (1988), to advise the Commission and to make recommendations, reached through consensus, that foster efficient and impartial number administration. The membership of NANC, which includes twenty-eight voting members and four special nonvoting members, was selected to represent all segments of the telecommunications industry as well as regulatory entities and consumer groups with interests in number administration. The current NANC charter

directs the Council to develop recommendations on numbering policy issues and facilitate number conservation including identification of technical solutions to number exhaust. [**14]

n15 In September 1999, the Commission addressed five petitions from state utility commissions. *See* California Public Utilities Commission Petition for Delegation of Additional Authority Pertaining to Area Code Relief and NXX Code Conservation Measures, *Order, 14 FCC Rcd 17485 (1999)* (*California Delegation Order*): Florida Public Service Commission Petition for Expedited Decision for Grant of Authority to Implement Number Conservation Measures, *Order, 14 FCC Rcd 17506 (1999)* (*Florida Delegation Order*); Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes, *Order, 14 FCC Rcd 17447 (1999)* (*Massachusetts Delegation Order*); New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, *Order, 14 FCC Rcd 17467 (1999)* (*New York Delegation Order*); Maine Public Utilities Commission Petition for Additional Delegated Authority to Implement Number Conservation Measures, *Order, 14 FCC Rcd 16440 (1999)* (*Maine Delegation Order*).

In November 1999, the Common Carrier Bureau addressed five similar petitions from state utility commissions. *See* Connecticut Department of Public Utility Control's Petition for Delegation of Additional Authority to Implement Area Code Conservation Measures, *Order*, CC Docket No. 96-98, DA 99-2633, NSD File No. L-99-62 (rel. Nov. 30, 1999) (*Connecticut Delegation Order*); New Hampshire Public Utilities Commission's Petition for Additional Delegated Authority to Implement Number Optimization Measures in the 603 Area Code, *Order*, CC Docket No. 96-98, NSD File No. L-99-71, DA 99-2634 (rel. Nov. 30, 1999) (*New Hampshire Delegation Order*); Petition of the Ohio Public Utilities Commission for Delegation of Additional Authority to Implement Number Conservation Measures, *Order*, CC Docket No. 96-98, NSD File No. L-99-74, DA 99-2635 (rel. Nov. 30, 1999) (*Ohio Delegation Order*); Petition of the Public Utility Commission of Texas for Expedited Decision for Authority to Implement Number Conservation Measures, *Order*, CC Docket No. 96-98, NSD File No. L-99-55, DA 99-2636 (rel. Nov. 30, 1999) (*Texas Delegation Order*); Petition of the Public Service Commission of Wisconsin for Delegation of Additional Authority to Implement Number Conservation Measures, *Order*, CC Docket No. 96-98, NSD File No. 99-64, DA 99-2637 (rel. Nov. 30, 1999) (*Wisconsin Delegation Order*). [**15]

n16 *See* Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, *Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009, 19027 (1998)* (*Pennsylvania Numbering Order*).

n17 *See California Delegation Order, 14 FCC Rcd at 17486; Connecticut Delegation Order* at P3; *Florida Delegation Order, 14 FCC Rcd at 17506; Maine Delegation Order, 14 FCC Rcd at 16440; Massachusetts Delegation Order, 14 FCC Rcd at 17447; New Hampshire Delegation Order* at P2; *New York Delegation Order, 14 FCC Rcd at 17468; Ohio Delegation Order* at P2; *Texas Delegation Order* at P2; *Wisconsin Delegation Order* at P2.

[*7582] 8. In adopting nationwide thousands-block number pooling as a number resource optimization strategy, we are mindful that this strategy is a means to an end - achieving more efficient number utilization - and not an end in itself. To that [**16] end, we have included incentive-based elements, such as usage thresholds, and safeguards, such as unused number reclamation requirements, to ensure that the goal of higher number utilization is achieved. We also reiterate that we do not necessarily see the measures implemented herein, particularly pooling, as our final answer to all of the problems associated with the current scheme of numbering resource allocation and utilization. We choose to implement pooling and certain administrative measures first because it is clear to us that these strategies can and will produce immediate and measurable results; they can be implemented in a relatively short amount of time; and some of these measures already have been implemented with some success. n18 Particularly, we are encouraged by the limited results we have seen in the Illinois pooling trial, in which the life of the 847 NPA has been extended by 24 months from the original projected exhaust date. We are aware that other optimization measures were also implemented in conjunction with the Illinois pooling trial. Thus, we have reason to believe that, while there is no one answer to resolving the numbering crisis, combining efforts to address [**17] effectively, comprehensively, and simultaneously

different drivers of numbering exhaust may be the key to prolonging the life of the NANP. In this regard, we recognize the integral role state commissions play in our numbering resource optimization policies and we will continue to rely on them to implement timely area code relief and other measures for which we have delegated additional authority to them, such as reclamation of unused numbering resources. We emphasize again that we are not abandoning the optimization measures not being implemented or specifically addressed in this *Report and Order*.

n18 *See* Report on the 310 Area Code, California Public Utilities Commission, March 16, 2000, submitted in compliance with Decision 99-09-067, *available at* <http://www.cpuc.ca.gov>.

9. At this time, we do not address issues raised in the *Notice* regarding audits, rate center consolidation, ten-digit dialing, and the use of technology-specific overlays. We emphasize that in the interim, our existing rules and policies with respect to these optimization measures (including the prohibition on technology-specific area code overlays) remain in effect. n19 We also emphasize that [**18] the optimization measures we adopt here today should not be viewed as substitutes for area code relief where it is required due to area code jeopardy situations. We intend to address these issues, as well as other numbering resource optimization strategies, in subsequent orders in this docket. We also seek comment on several matters relating to our findings in this *Report and Order* in an accompanying *Further Notice*.

n19 *See* Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech - Illinois, *Declaratory Ruling and Order, 10 FCC Rcd 4596, 4608, 4610-12 (1995)* (*Ameritech Order*).

III. MONITORING NUMBER USAGE FOR EFFICIENCY

A. Definitions of Number Category Usage

10. In the *Notice*, we observed that the current procedures for allocating numbering resources, which are set forth in the Central Office Code (NXX) Assignment Guidelines (CO [*7583] Code Assignment Guidelines), n20 do not impose adequate discipline on a carrier's ability to obtain and stockpile numbers for which it has no immediate need. n21 Consequently, carriers may request and receive additional numbering resources without demonstrating that [**19] they are actually utilizing efficiently the numbers already allocated to them. Moreover, there are no mechanisms to ensure that carriers' forecasting is an accurate reflection of the resources they will need in the immediate future, or that they are utilizing efficiently the resources already allocated to them. The absence of uniform definitions has especially hampered the monitoring of carrier number usage. We believe the first step in addressing these problems is to establish uniformly defined categories of numbering use and then to monitor, on a regular basis, how individual carriers are using their numbering resources.

n20 CO Code Assignment Guidelines, INC 95-0407-008 (rev. Mar. 3, 2000). This document is available at <http://www.atis.org>.

n21 *Notice, 14 FCC Rcd at 10353.*

B. Uniform Definitions

11. We tentatively concluded in the *Notice* that a uniform set of definitions for the status of numbers should be established for purposes of implementing the number optimization proposals set forth in the *Notice*. n22 We proposed fifteen categories and definitions of number use, and sought comment on whether the proposed definitions should [**20] be codified as Commission rules, or, in the alternative, be incorporated into the CO Code Assignment Guidelines and Thousand Block (NXX-X) Assignment Guidelines (Thousand Block Pooling Guidelines). n23 We also asked whether all fifteen of the proposed definitions were necessary and useful, and whether any additional definitions should be adopted. n24 In this section, we establish uniform definitions for six primary categories of numbering use. The definitions we adopt will also be employed in our discussion of the mandatory monitoring and reporting requirements that we establish in this *Report and Order*.

n22 *Id. at 10340.*

n23 *Id. at 10341. See also* Thousand Block (NXX-X) Pooling Administration Guidelines, INC 99-0127-023 (Feb. 28, 2000). The Thousand Block Pooling Guidelines describe the administration and assignment of thousand blocks to LNP-capable service providers. Moreover, the guidelines outline the processes used between the Pooling Administrator and code holders, LERG assignees, block holders, the CO Code Administrator and the NPAC. *Id.* at § 1.0. The Thousands Block Pooling Guidelines were developed to comport with the NANC recommendation that the NANPA serve as the thousands-block Pooling Administrator. *Id.* at § 2.5. [**21]

n24 *Id.*

12. We adopt our tentative conclusion and find that uniform definitions for numbering use are essential for ensuring that numbering resources are used efficiently. We observe that there is broad agreement among all parties that standardized definitions are needed for better resource management. n25 We believe that establishing these definitions is an important step [*7584] towards injecting a greater degree of discipline into the process of allocating and administering numbering resources.

n25 *See, e.g.* Massachusetts Department of Telecommunications and Energy (Massachusetts Commission), Attachment A, Outline of State Response to Numbering NPRM at 1. An exception is Cincinnati Bell Telephone (CinBell) comments at 3 (noting that it supports uniform definitions, but arguing that revising existing industry established definitions would be costly and not justify the benefits). We reject this argument and find that using terms consistently to characterize number use does not impose significantly more direct cost on carriers than using them inconsistently. The direct cost of implementing uniform definitions requires little more than rearranging existing terms of individual definitions into standardized definitions. [**22]

13. In making our finding, we note that the industry has attempted to develop uniform definitions in the past. Despite its efforts, however, no single source for numbering usage categories has emerged and somewhat different definitions are contained in various industry publications. For example, identical categories of number usage are included in multiple industry documents, yet some of those categories are defined differently. n26 Given these inconsistencies, we conclude that we must establish and codify uniform definitions for number categories that are mutually exclusive, and accurately reflect the manner in which numbers are being utilized by carriers and their customers. Adoption of these definitions by the entire industry combined with our reporting requirements will enable us to obtain number utilization information in a consistent manner on a regular basis. This, in turn, will facilitate the accurate monitoring and tracking of the availability of numbering resources in the NANP.

n26 For example, "TNs Unavailable for Assignment" is defined differently in the CO Code Assignment Guidelines and the Thousand Block Pooling Guidelines. *See* CO Code Assignment Guidelines at § 13.0; Thousand Block Pooling Guidelines at § 14.0. [**23]

14. To ensure that all carriers use the uniform definitions that we establish herein, we find it necessary to codify those definitions. Because our overall goal in defining number use categories is to improve the accuracy of utilization data reporting, we codify six mutually exclusive primary categories of number usage. These primary categories of use are *Assigned, Intermediate, Reserved, Aging, Administrative, and Available.* We conclude that limiting our codification to these six primary categories will assure that the aggregate of all numbers reported will equal the total of numbers given to a code holder by the NANPA or to a block holder by a Pooling Administrator. Because the categories that we are not codifying are, in fact, secondary categories of certain of the six major categories, n27 we provide the industry with guidance regarding the six primary categories under which they should be counted. We also find that the definitions for "Working Numbers" and "TNs Unavailable for Assignment" should be eliminated for tracking and reporting purposes because they are overly broad and would result in the double counting of certain numbers. Moreover, to ensure consistency and meet [**24] state commissions' needs for tracking these categories, we direct the NANC, with input from the National Association of Regulatory and Utility Commissioners (NARUC) and the states, to compile the uniform definitions for all secondary categories identified in the *Notice* and to determine where the definitions will be found. We will allow them 120 days to complete this task.

n27 The secondary categories are: (1) Employee/official numbers; (2) Location routing numbers; (3) Test numbers; (4) Temporary local directory numbers (TLDN); (5) Wireless E911 emergency service routing digits/key (ESRD/ESRK) numbers; (6) Dealer pool numbers; (7) Ported-out numbers; and (8) Soft dial tone numbers.

[*7585] 15. Like the majority of commenters, we agree that codification of the most significant definitions is necessary in light of the changes that often occur within the industry guidelines without input from parties other than industry members, the lack of uniformity within those guidelines, and the sometimes slow-moving industry consensus process. n28 We are sensitive, however, to industry concerns that codification could result in inflexible definitions or definitions that require constant [**25] revision and therefore believe that control over the definitions for secondary categories will provide the industry, in conjunction with the states, with the flexibility to make desired changes. We find that our decision to codify definitions for six primary categories of use is reasonable given that the subcategory definitions are the ones most susceptible to changes due to new technologies and adjustments in the demographic composition of service areas. n29 We delegate to the Common Carrier Bureau, in consultation with the Wireless Telecommunications Bureau, the responsibility to keep the definitions of the six major or primary categories current in light of technological changes and concerns of the states and industry members.

n28 *See, e.g.* Texas Public Utility Counsel and National Association of State Utility Consumer Advocates (Texas Public Util. Counsel and NASUCA) at 22.

n29 For example, digital technology or urban areas may require a different mix of *administrative numbers* than analog technology or rural areas.

1. Assigned Numbers

16. In the *Notice*, we proposed that *assigned numbers* be defined as numbers working in the Public Switched Telephone [**26] Network (PSTN) under an agreement such as a contract or tariff at the request of specific customers for their use, or as numbers not yet working but having a customer service order pending. n30 We also sought comment on whether we should refine this definition by limiting the time during which a customer's number could be considered pending to three to five days. n31

n30 *Notice, 14 FCC Rcd at 10343.*

n31 *Id.*

17. We find that the proposed definition of *assigned numbers* is reasonable and adopt it. Moreover, we agree with commenters arguing that dealer pools and reseller pools should not be treated as *assigned numbers* to the extent that they have not been assigned to a specific end user. n32 Once these numbers are assigned to a specific end user, however, the carrier making them available for assignment should categorize them as *assigned numbers*. n33

n32 AT&T comments at 12; GTE comments at 14. In this context, the phrase "specific customers for their use" refers only to end users.

n33 *But see infra* P21, clarifying that the carriers making such numbers available for assignment should initially catergorize them as *intermediate numbers*. [**27]

18. We also conclude that numbers ported for the purpose of transferring an established customer's service to another carrier should be categorized as *assigned numbers*. [*7586] Consistent with the INC guidelines and SBC's position, we conclude that the donating carrier should classify *ported-out* numbers as *assigned numbers*, while the receiving carrier should not classify these numbers in any of our six defined primary categories. n34 By requiring only that the porting-out carrier report these numbers, we also seek to avoid double counting.

n34 SBC comments at 36-37.

19. We also adopt a five-day limit on the time that a number may be held in pending status in the *assigned* category. n35 We find that this restriction is necessary to prevent carriers from classifying numbers as pending assignment when those numbers should more accurately be placed in the category of *reserved numbers*. No party has adequately justified why a number should be held as pending assignment for an unlimited amount of time. We disagree with SBC's argument that no limits on pending times are necessary because carriers have particular incentives to connect pending numbers. n36 We believe [**28] that the lack of limits creates incentives for misuse of this category. If carriers have such strong incentives to activate numbers, then five days should be adequate to complete activation in most instances. SBC's and Cincinnati Bell Telephone's claims that these limits could result in the reassignment of a number different than the number ordered by a customer also do not persuade us. n37 Carriers have the ability to categorize numbers in the *reserved* category if they foresee a longer delay in activating a number.

n35 Massachusetts Commission, Attachment A, Outline of State Response to Numbering NPRM comments at 2.

n36 SBC comments at 35-36.

n37 SBC comments at 35-36; CinBell comments at 4-5.

2. Intermediate Numbers

20. Some carriers maintain an *intermediate, i.e.*, secondary inventory of numbering resources for the purpose of providing numbers to other carriers (*e.g.*, resellers) and non-carrier entities (*e.g.*, retail dealers and unified messaging service providers). n38 These "intermediaries", in turn, make the numbers they receive from code or block holders available to their end user customers. n39 In the *Notice*, we proposed to define one category [**29] of such numbers, "dealer numbering pools," as a set of numbers allocated by a service provider to a retail dealer for use in the sale and establishment of service on behalf of that service provider. n40 We also sought comment on how carriers should classify dealer numbering pools in their inventories, how dealer numbering pools should be treated, and what, if any, limitations should be imposed on the assignment of these numbers. n41

n38 Unified message service providers use one number to consolidate (unify) incoming messages from multiple sources. For example, facsimiles and voice mail messages can be sent to one number and converted to e-mail messages.

n39 *See, e.g.*, AirTouch comments at 15.

n40 *Notice, 14 FCC Rcd at 10343.*

n41 *Id.*

[*7587] 21. We agree with commenters who opine that such numbers should not be categorized as *assigned* numbers because they have not been assigned to an end user. n42 We also find that such numbers should not be counted in the code or block holder's inventory because the code or block holder does not control the provision of these numbers to end users. We therefore conclude that numbers that [**30] are made available for use by another carrier or non-carrier entity for the purpose of providing telecommunications service to an end user or customer should be categorized as *intermediate numbers*. We clarify that the carrier making such numbers available for assignment by a non-carrier entity should categorize them as *intermediate numbers* only until they are assigned to an end user or customer by the non-carrier entity. Once *intermediate numbers* are assigned to an end user or customer the non-carrier entity, the carrier making such numbers available to the non-carrier entity should categorize them as *assigned numbers. n43 Intermediate numbers* include numbers provided for use by resellers, numbers in dealer numbering pools, numbers preprogrammed into customer premises equipment offered for retail sale, n44 and numbers assigned to messaging service providers. We also recognize that, with new technologies emerging everyday, n45 this list may not encompass all examples of such intermediate numbers. Our intent is to include in this category all numbers controlled or made available to an end user or customer by a carrier or non-carrier entity other than the code or block [**31] holder, and exclude all numbers assigned to end user customers of code or block holders.

n42 AT&T comments at 12; GTE comments at 14.

n43 *See supra* P17.

n44 This would include such services, for example, as pre-paid cellular telephones.

n45 In an *ex parte* presentation, MCI WorldCom recommended that introduction of new services such as messaging services must be planned for in addition to efficiency measures such as pooling. MCI WorldCom also recommended that the Commission should direct the NANC to investigate the possibility of severing the relationship between the NPA-NXX and rate areas, which is already the case for messaging services and which it asserts is a root cause of number shortages. *See* Letter from Karen M. Johnson, MCI WorldCom, to Magalie Roman Salas, FCC, dated January 10, 2000.

3. Reserved Numbers

22. In the *Notice*, we tentatively concluded that *reserved numbers* should be defined as numbers held by service providers at the request of specific end use customers for their future use. n46 The NANC has recommended that carriers be permitted to hold aside a separate 12-month inventory of reserved numbers, with an additional six months [**32] of possible extensions. n47 In the *Notice*, we also sought comment on whether time limits should be imposed on the amount of time a code may be held in reserved status and suggested 45 days as an appropriate period of [*7588] such a limitation. n48 In addition, we requested comment on whether carriers should be required to pay a fee for numbers held in reserved status. n49 We noted that the practice of some carriers is to require fees from parties for whom they are reserving numbers as an assurance that the reservation would be honored. We requested comment on whether the same type of assurance, *i.e.*, imposition of a fee, should be required from reserving carriers themselves. n50

n46 In the *Notice*, we included a detailed list of characteristics and guidelines for *reserved numbers*. *Notice, 14 FCC Rcd at 10344.* These were updated in a recent NANC report, Number Resource Optimization Working Group Report on Telephone Number Reservations, Report to the North American Numbering Council, as modified by the North American Numbering Council, August 25, 1999.

n47 *See* Number Resource Optimization Working Group Report on Telephone Number Reservations, Report to the North American Numbering Council, as modified by the North American Numbering Council, August 25, 1999. [**33]

n48 *Notice, 14 FCC Rcd at 10345.*

n49 *Id.*

n50 *Id.*

23. We adopt our definition of *reserved numbers* as articulated in the *Notice*. We believe that this definition adequately separates *reserved numbers* from the other categories of use. We also adopt our proposal to reduce the amount of time that numbers may be held in reserved status to 45 days. After the 45-day reservation period, these numbers should be categorized as available numbers if they have not been assigned to a customer or end user. We reject the arguments of several parties who assert that longer reservation periods are necessary or that no time limits are needed. n51 The purpose of having *reserved numbers* is to give prospective clients some assurance that numbers with the characteristics those customers are seeking will be available to them in the near future. We find that limiting reservations to 45 days reasonably balances the needs of carriers to earmark and set aside a number or group of numbers for a particular customer against the objective of improving the efficiency of numbering resource use. Given the shortages of resources carriers are experiencing [**34] in some NPAs, we agree with several commenters that the NANC's proposed maximum 18-month reservation period is far too long a period of time to give such assurances, and therefore decline to adopt it. n52 Moreover, we conclude that permitting carriers to hold numbers in reserved status for a long period of time invites abuse.

n51 *See* Ohio Commission comments at 5-6 (recommending a 3-month inventory of reserved numbers); SBC comments at 39 (stating that reserved numbers do not need restrictions beyond the characteristics and

broad guidelines being developed by the industry and that further restrictions will be ineffective or will deter customers from reserving numbers).

n52 Massachusetts Commission, Attachment A, Outline of State Response to Numbering NPRM comments at 2-3; North Carolina Commission comments at 4.

24. In establishing the 45-day reservation period, we will not allow for any extensions. As a general matter, we find that permitting extensions would have the effect of undercutting the goals of establishing a specific time limitation. Our primary goal in setting the 45-day limitation is to ensure that numbers are used rather than warehoused. We believe that this, [**35] in turn, will result in more efficient use of numbers. We, therefore, reject the NANC's proposal to allow two 90-day extensions.

25. Notwithstanding our declining, at this time, to allow for extensions of the 45-day reservation period, we agree with MCI and the Minnesota Department of Public Service that the imposition of fees on extensions of the reservation period would encourage more efficient use of [*7589] numbers and act as a deterrent to warehousing or stockpiling. n53 In particular, we believe that MCI's proposal to impose a fee on extensions in the reservation period represents an opportunity to impose some market discipline on carriers' use of numbers. A fee on *reserved number* extensions balances a specific customer's desire to reserve access to certain numbers against society's cost of having to use additional NANP resources in order to meet the needs of subscribers of non-reserved numbers. Although the NANC considered and rejected the notion that fees for *reserved numbers* should be established, n54 it may have done this without fully considering our concerns over the real economic costs of maintaining a separate inventory for *reserved numbers* with extensive [**36] reservation periods. In this order, we request the NANC to reconsider this issue and determine whether a meaningful economic fee structure for *reserved numbers* could be developed, as MCI proposed. In its deliberations, the NANC should also consider how the receipts from such fees should be used. If an economically sound approach for establishing a fee structure on extensions for *reserved numbers* can be developed, we would reconsider our current position prohibiting the grant of any extensions for *reserved numbers*.

n53 Minnesota Commission comments at 4; MCI WorldCom comments at 37-38.

n54 Number Resource Optimization Working Group Report on Telephone Number Reservations, Report to the North American Numbering Council, as modified by the North American Numbering Council, August 25, 1999, at 4-5.

26. Due to their association with specific customers, *reserved numbers* represent a form of inventory distinctly separate from *available numbers*. Thus, we decline to adopt AT&T and WinStar's suggestions to reduce or eliminate reservation periods by classifying reserved numbers as *available numbers*. n55 We realize reservations play an important role in marketing [**37] local services in a competitive environment. Therefore, we do not wish to entirely eliminate the category of *reserved numbers*. For example, we are aware that customers frequently seek some advance assurances that a carrier can provide an individual or block of numbers before they sign with a particular carrier, and it is not our intent to limit this well-established convention by eliminating reserved numbers as a separate category.

n55 AT&T comments at 13; WinStar reply comments at 5, 16 (asserting that incumbents allow large customers to reserve indefinitely hundreds or thousands of numbers, or even multiple NXX codes for perceived or projected growth, and recommending that numbers be reserved for a reasonable but finite period after which they are made available to others).

27. We also reject the California Commission's recommendation that state commissions be given additional authority to narrow the definition of *reserved numbers* and set time limits on *reserved numbers*. n56 We believe that permitting each state to modify the definitions would contravene the benefits of having uniform nationwide definitions. It may also create a great deal of uncertainty for carriers, [**38] either because a state changes its rules or because the carrier operates in multiple states.

n56 California Commission comments at 12 (recommending that states be delegated authority to narrow the definition of *reserved numbers* and set time limits on reserved numbers).

[*7590] **4. Aging Numbers**

28. An *aging number* is a number in the aging process. n57 Aging is the process of making a disconnected telephone number unavailable for re-assignment to another subscriber for a specified period of time. n58 No party disagreed with this definition. An aging interval includes any announcement treatment period, as well as blank telephone number intercept period. n59 In the *Notice*, we sought comment on the standard aging intervals currently used by carriers, as well as whether we should set limits on the amount of time a number may remain in the aging status, *e.g.*, 90 to 120 days. n60

n57 *See* CO Code Assignment Guidelines at § 13.0.

n58 *Notice, 14 FCC Rcd at 10342.*

n59 As part of the *aging number* management process, carriers may provide subscribers who terminate their telephone services with two types of recorded messages: intercept messages and announcement messages. An intercept message offers subscribers two options regarding intercept message contents: (1) the subscriber's new telephone number, or (2) a disconnect announcement, with no further information. The announcement message alerts the calling party that the telephone number is no longer in service, and is provided by carriers for a period of time after the intercept message period expires. Carriers may also offer announcement messages to subscribers in lieu of intercept messages. The duration of both intercept and announcement messages falls under state regulation. [**39]

n60 In the *Notice* we referred to draft industry guidelines of 30 to 60 days for residential, 90 to 365 days for business and 18 months for high volume call numbers. *Notice, 14 FCC Rcd at 10343.* These draft guidelines have since been adopted by the INC as official guidelines. *See* INC Guidelines for the Aging and Administration of Disconnected Telephone Numbers, INC 99-1108-024 (Nov. 8, 1999).

29. We define *aging numbers* as disconnected numbers that are not available for assignment to another end user or customer for a specified period of time. Consistent with the Industry Numbering Committee (INC) Guidelines, we also adopt an upper limit of 90 days for residential numbers and 360 days for business numbers. n61 We follow the upper limits in the guidelines in this instance because they represent industry experience as well as aging requirements imposed by some states. We decline to set lower limits at this time. We observed recently that, in areas of acute number shortages, some carriers have reduced aging limits to one to seven days, or even zero in situations where no charges are incurred for calls of less than one minute in duration. [**40] Although we are concerned that too short of an aging period could cause confusion and unnecessary disruptions to subscribers, we believe that carriers can selectively reduce some aging limits to near zero if necessary without causing these problems. Also, in the interest of maintaining uniformity in our definitions and reporting requirements, we decline to permit states to modify our aging limits.

n61 *Id.* A third category of numbering use includes *high volume calling numbers* which we exclude from our time limit requirements.

30. Wireline customers generally need longer aging periods than wireless service providers, because wireline customers usually have their numbers listed in directories. Moreover, wireline business customers require an even longer aging period than do wireline residential customers because they also advertise their numbers. We believe that the upper limits [*7591] of aging periods in the guidelines offer sufficient assurance that customers receiving service from all sectors of the industry will avoid mistaken number contacts. Thus, we decline to adopt the shorter aging periods suggested by some parties. n62

n62 *See e.g.*, WinStar reply comments at 5 (asserting that more restrictions on aged numbers are needed because ILECs hold these numbers well in excess of established limits); AirTouch comments at 15 (recommending a 90-day limit on aging for all carriers). [**41]

5. Administrative Numbers

31. In the *Notice*, we proposed that *administrative numbers* be defined in terms of specific administrative functions with the qualification that these numbers cannot be assigned to customers. n63 We also proposed that *employee/official numbers, Location Routing Numbers, test numbers, Temporary Local Directory Numbers (TLDN)* and *wireless E911 emergency service routing digits/key (ESRD/ESRK) numbers* all be included in the general category of *administrative numbers*. n64

n63 *Notice, 14 FCC Rcd at 10341.*

n64 *Id.*

32. In this *Report and Order*, we broaden our proposed definition and adopt a definition of *administrative numbers* to include any numbers used by carriers to perform internal administrative or operational functions necessary to maintain reasonable quality of service standards. Commenting parties generally agreed with the proposed definition in the *Notice*. We further require that carriers must be able to identify, upon request, a specific administrative or operational function associated with each of the numbers they report in this category. We make this modification to ensure [**42] that all such numbers that have these characteristics are included in the *administrative numbers* category. We also clarify that the numbers identified in the *Notice* as *administrative numbers* are included in this definition. We agree with commenters that carriers should not be able to use the *administrative number* category to build and carry excessive numbering resources. Since we require the specification of the particular administrative function for which the reservation is made, we believe that our definition discourages such misuse. n65 We, decline however, to adopt the California Commission's recommendation that service providers be prohibited from converting *administrative numbers* to *assigned numbers* for customers at a later date. n66 We do not wish to trap unnecessarily numbers in the *administrative number* category after they are no longer required for this use.

n65 California Commission comments at 11.

n66 California Commission comments at 11. The California Commission also proposed that specific regulations be enacted to discourage and prohibit indiscriminate and irresponsible allocation and use of numbers in this category. *Id.*

33. In [**43] the *Notice*, we proposed that *soft dial tone numbers* be defined as numbers that permit restricted dialing, and that they be treated as *administrative numbers*. SBC agreed with our proposal. n67 Soft dialtone is simply a functionality that permits a caller to call emergency [*7592] services and sometimes receive incoming calls. Thus, we adopt our proposal and conclude that *soft dial tone* numbers should be counted as *administrative numbers*.

n67 SBC comments at 39.

34. We also reject AirTouch's proposal that not more than .25% of numbers in any NXX be used for administrative purposes, n68 because AirTouch provides no basis for this particular quantitative limit. We are also concerned that such a limitation could impose an inflexible standard that would be burdensome for the NANPA to monitor.

n68 AirTouch comments at 14. This would set a maximum of 25 numbers per NXX that could be used for administrative purposes.

6. Available Numbers

35. In the *Notice*, we proposed that numbers *available for assignment* be defined as numbers within existing codes (NXX) or blocks (NXX-X) that are available for assignment to subscriber access lines or their equivalents [**44] within a switching entity/point of interconnection (POI) and are not categorized as *assigned, dealer pools* (which we now define as intermediate), *administrative, aging* or *reserved.* n69 In this *Report and Order*, we adopt this general definition, but also clarify that *available numbers* is a residual category that can be calculated by subtracting the sum of numbers in the *assigned, reserved, intermediate, aged, and administrative* primary categories from the total of numbers in the inventory of a code or block holder. We incorporate this mathematical relationship in our reporting requirements.

n69 *Notice, 14 FCC Rcd at 10345.*

7. Secondary Categories

36. In the *Notice*, we proposed to define eight additional categories of number use. These categories are: (1) *employee/official numbers*; (2) *Location Routing Numbers*; (3) *test numbers*; (4) *Temporary Local Directory Number*; (5) *wireless E911 emergency service routing digits/key numbers (ESRD/ESRK)*; (6) *dealer pool numbers*; (7) *ported-out numbers*; and (8) *soft dial tone numbers*. n70 Although we decline to define these additional categories, we [**45] will permit the NANC, with input from the National Association of Regulatory Utility Commissioners (NARUC) and state commissions, to define them. In doing so, we seek to achieve the same uniformity for these definitions as with the number categories we define herein. We also specify that these additional categories should be designated as subcategories of the primary categories. Specifically, ported-out numbers should be included as a subcategory of *assigned numbers. Test numbers, employee/official numbers, Location Routing Numbers, Temporary Local Directory Numbers, soft dial numbers* and *wireless E911 ESRD/ESRK numbers* should be included as subcategories of *administrative numbers*. Numbers such as *dealer number pools* should be included as a subcategory of *intermediate numbers*.

n70 *Id.*

[*7593] **C. Mandatory Nature of Reporting**

1. Mandatory Requirement

37. Establishing uniform definitions for number category usage is only the first step towards injecting a greater degree of discipline into the process of allocating and administering numbering resources. We believe that monitoring individual carriers' use of numbering resources also is necessary to [**46] ensure that numbering resources are efficiently used and that the NANP is not prematurely exhausted. More consistent, accurate, and complete reporting of historical and forecast data will serve multiple purposes. First, it will allow the NANPA to develop a comprehensive database on numbering resource demand, allocation, and use, thereby permitting it to accumulate a complete inventory of all numbering resources allocated to U.S. telecommunications service providers. These data are critical to the accurate forecasting of NANP and NPA exhaust. Second, it will deter carriers from requesting and holding excessive quantities of numbering resources for which they have no immediate need. Third, it will facilitate this Commission's ability to formulate appropriate national policy on numbering resource optimization by providing a complete picture of how numbering resources are being used in all markets. Finally, it will provide the states, which have authority to conduct area code relief, location-specific data that will enable them to make appropriate decisions on such matters.

a. Background

38. Currently, utilization and forecasting information is collected by NANPA through the Central [**47] Office Code Utilization Survey (COCUS). The COCUS solicits data on actual and projected CO code utilization for each NPA in the NANP. In our *Notice* we observed that for many reasons, the usefulness of the COCUS for purposes of monitoring numbering resource use is limited. n71 The most serious deficiency with the current mechanism is that data reporting by carriers is voluntary, not mandatory. n72 Another limitation that we identified is that the COCUS is reported annually. Thus, analyses based on the COCUS can become outdated due to changing conditions months before new data are collected and analyzed. n73 Finally, we observe that the utilization data collected through COCUS lacks sufficient specificity to enable the NANPA to determine how carriers are utilizing numbers assigned to them. n74

n71 *Id. at 10353-54.*

n72 *Id. at 10353.*

n73 *See* 47 C.F.R. § 52.13(c)(4).

n74 *Notice, 14 FCC Rcd at 10353-54.* We also noted that until very recently, the COCUS was limited to the reporting of forecast data. *Id.*

39. Since 1999, the NANPA, at the Commission's request, has taken [**48] some steps to improve the quality of the COCUS data. For example, the COCUS survey was expanded to include the submission of utilization data. In

addition, the NANPA has intensified its efforts to encourage carriers to submit COCUS data. Although these steps have somewhat improved the quality of the COCUS submissions, they have not resolved its underlying problems. In fact, [*7594] there is general agreement among commenters that COCUS should be replaced with mandatory reporting requirements that are more comprehensive in nature.

b. Discussion

40. In the *Notice* we tentatively concluded that we should mandate all users of numbering resources to supply the NANPA with forecast and utilization data. n75 Virtually all commenters agree that mandatory reporting is necessary and state that the current voluntary reporting system is inadequate for tracking numbering use and projecting exhaust. n76 Many commenters agree that federal rules would ensure that all carriers, regardless of size, will supply forecast and utilization data to the NANPA. n77 We agree, and therefore mandate that all carriers that receive numbering resources from the NANPA (*i.e.*, code holders), or that receive [**49] numbering resources from a Pooling Administrator in thousands blocks (*i.e.*, block holders), report forecast and utilization data to the NANPA. We also require carriers that receive *intermediate numbers* to report forecast and utilization data for such numbers in their inventories to the NANPA to the same extent required for code and block holders. For *intermediate numbers* controlled by non-carriers (such as retailers or unified messaging service providers), the carrier that provides *intermediate numbers* to such entities must report utilization and forecast data to the NANPA for these numbers.

n75 *Id. at 10354.*

n76 North Carolina Commission comments at 6.

n77 AT&T comments at 19-20.

41. Reporting carriers shall report their utilization and forecast data by separate legal entity. Each reporting carrier shall be identified by its Operating Company Number (OCN) on the submission. Furthermore, the NANPA shall not issue new numbering resources to a carrier without an OCN.

42. The National Telephone Cooperative Association (NTCA) is one of the few parties that disagreed with our tentative conclusion regarding mandatory reporting for [**50] all carriers, asserting that no reporting requirement should be imposed on small carriers where exhaust is not a problem. In the alternative, it states that, at most, rural carriers should be required only to report changes in utilization, and that these carriers should be able to respond with "no change" where appropriate. n78 Because effective monitoring of all NANP resources is a necessary step in achieving our optimization goals, we decline to exempt small or rural code or block holders from the mandatory reporting requirement. We do however, authorize rural telephone companies, as defined in the 1996 Act, n79 to report their historical utilization data at the NXX level rather than at [*7595] the thousand-block level in areas where Local Number Portability (LNP) is not available. n80 Moreover, we deem it reasonable, as suggested by NTCA, to allow any carrier whose forecast and utilization data have not changed from the previous reporting period to simply re-file the prior submission and indicate that there has been no change since the last reporting, or to report "no change."

n78 NTCA reply comments at 3.

n79 *47 U.S.C. § 153*(37).

n80 The 1996 Act defines number portability as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." *47 U.S.C. § 153*(30). [**51]

2. Collection Procedures

a. Background

43. In the *Notice* we identified several data collection and NANP forecast models that had been proposed by NANPA and various industry members. n81 These models include the AT&T Minimalist model, the U.S West Top-down/Bottom-up Model, and the NANPA's proposed Line Number Utilization Survey (LINUS). n82 The NANC subsequently recommended a fourth model, the Hybrid, which is a synthesis of the aforementioned models. n83 In

response to the Common Carrier Bureau's public notice seeking comment on a replacement for the COCUS, commenting parties focused their discussions on the LINUS and the Hybrid models.

n81 *Notice, 14 FCC Rcd at 10357-58.*

n82 *Id.*

n83 This model was subsequently noticed on July 1, 1999. *See* Common Carrier Bureau Seeks Comment on the North American Numbering Council Recommendation Concerning Replacement of Central Office Code Utilization Survey, DA 99-1315 (NANC COCUS Recommendation).

44. The Minimalist model uses annual COCUS data, including utilization data, to measure working telephone numbers at the NPA level. The model then forecasts NPA and NANP exhaust using modeling [**52] techniques by combining the COCUS and utilization data with extensive forecasts of telephone number growth and projections of new entrant profiles and growth rates. The Top-down/Bottom-up Model involves a two-stage process. The first stage, Top-down analysis, uses historical COCUS data and mathematical modeling to develop initial exhaust forecasts for each area code. Once the NANPA determines that a particular NPA will exhaust within a selected period, the second stage of the model is applied. The second stage involves a Bottom-up analysis, which relies on user input similar to the existing COCUS system, but employs a mechanized data collection process. Both the Minimalist and the Top-Down/Bottom-Up models rely too heavily on modeling and forecasting techniques and not enough on actual data to address our and the state commissions' reporting and data needs. In both cases, the models focus exclusively on exhaust forecasts and, therefore, would not provide the information that we need to meet our number optimization goals.

45. LINUS contemplated the most extensive reporting requirements. It was envisioned to have two reporting components: an historical utilization reporting requirement [**53] and [*7596] a forecasting reporting requirement. The frequency of historical utilization data reporting would depend on the location of the numbering resources. LINUS would require carriers in the top 100 metropolitan statistical areas (MSAs) to report quarterly, while non-rural MSAs outside the 100 largest MSAs would report semi-annually and rural NPAs would report annually. With respect to granularity, data in pooling NPAs would be reported at the thousands-block level and at the NXX level where there is no pooling. Finally, the model contemplated reporting on seven different categories of number use. The forecasting component would require quarterly reporting in the top 100 MSAs and semi-annual reporting elsewhere. Where pooling is implemented, it would require reporting by thousands-block at the rate center level while in other NPAs data would be reported by NXX at the NPA level. All forecast data would be reported electronically with codes broken out as either initial or growth codes. The NANPA envisioned applying multivariate probability density analysis to these data to forecast NPA and NANP exhaust. n84

n84 Multivariate probability density analysis is a statistical technique used to make projections based on expected probabilities. [**54]

46. The Hybrid model, like LINUS, would establish both historical utilization and forecasting requirements. Reporting would depend on where the numbering resources are located and whether the NPA is expected to exhaust in the subsequent five years. In non-pooling NPAs, outside a five-year exhaust window, utilization and forecasting data would be required on at least an annual basis. For NPAs where pooling is implemented, or for NPAs that are projected to exhaust within the next five years, reporting would be semi-annual. The granularity of reporting under the Hybrid model would depend on whether pooling has been ordered in an NPA and whether carriers are required to pool or are exempt from the pooling requirement. n85 In NPAs where pooling has been implemented, carriers required to pool would report their utilization data at the thousands-block level while carriers exempt from pooling would report at the NXX level. In non-pooling NPAs that are within five-years of exhaust, carriers would report utilization data by NXX at the NPA level, while those outside the exhaust window would report at the NPA level. Under the Hybrid model utilization data would be reported as a single statistic, [**55] "telephone numbers unavailable," with service providers retaining the underlying data by telephone number status category for audit purposes or if requested by the NANPA.

n85 *See* NANC COCUS Recommendation Report, June 30, 1999, at 13.

47. Forecast data under the Hybrid model would be reported by thousands-block at the rate center level in pooling NPAs for pooling carriers and by NXX for non-pooling carriers. In non-pooling NPAs forecast data would be reported by NXX at the NPA level, regardless of whether it was in the exhaust window. All forecast data would be reported by "initial" and "growth" codes and would be filed electronically. n86 For the purposes of projecting exhaust, the reported data would be combined with historical data and mathematical modeling, with NPA specific assumptions used to develop the forecasts for NPA exhaust.

n86 An initial code is the first NXX code that carriers receive in a rate center. Initial codes are also called "footprint codes." Growth codes are the additional codes that a carrier requests when its existing codes are exhausted.

[*7597] **b. Discussion**

48. In their comments, several state commissions indicated support for LINUS [**56] because of its quarterly reporting requirement and greater granularity. n87 These states argued that reporting at this higher level of detail is necessary to monitor numbering use and forecast NANP and NPA exhaust. The Hybrid model has broad support within the industry. n88 Indeed, as we noted above, the NANC recommended adoption of this model to the Common Carrier Bureau. Several proponents of the Hybrid model, such as Ameritech and GTE, argue that the reduced reporting requirements contemplated by the Hybrid model are fully justified given its intended use. These parties argue that the data needed by the NANPA for predicting NPA and NANP exhaust is significantly less than the data needed for other analyses such as audits. Ameritech explains that reporting necessary to predict NPA exhaust requires aggregate information at frequent intervals while data used for audits requires specific data at more detailed levels upon demand. n89 Others support adoption of the Hybrid model over LINUS on the basis of cost, although these parties provide no direct cost estimates to support their contentions. n90

n87 Texas Public Util. Counsel and NASUCA comments at 24; Ohio Commission comments at 12. [**57]

n88 *See* AT&T comments at 19; AT&T reply comments at 10; Bell Atlantic comments at 11; USTA comments at 5. n89 Ameritech comments at 18.n90 *See* PCIA comments at 32; GTE comments at 26. The only cost information regarding the cost of alternative models was provided in the NANC COCUS Recommendation Report. This report contains an analysis by the NANPA of relative cost for each proposed model compared to the cost of COCUS. It estimated that the cost of LINUS was estimated to be 7.5 times the cost of COCUS. The cost of the Hybrid was estimated to be 7 times the cost of COCUS. It was also noted that service providers estimated that the cost of the Hybrid model would be materially less than LINUS. No specific cost estimates were provided. *See* NANC COCUS Recommendation Report, June 30, 1999, at 32-33.

49. We decline to adopt either the LINUS or the Hybrid model as the basis for our mandatory data reporting requirement. We find that reporting for seven categories of use and quarterly reporting, as proposed with the LINUS model, would substantially increase costs to both the carriers and the NANPA without providing commensurate benefits. Our objective is to request [**58] the minimal amount of data to enable us to meet the regulatory objectives identified above. We find the detailed and frequent reporting under the LINUS to be unduly burdensome.

50. Although we find some aspects of the Hybrid model, such as semi-annual reporting, to be reasonable, we also decline to adopt it as our reporting model. As described below, we believe that all utilization data should be reported at the thousands-block level. n91 We also find that reporting only the category of "numbers unavailable" will provide insufficient information for the NANPA, states, and this Commission to carry out our numbering administration responsibilities.

n91 *See infra* PP69-73.

51. The data collection procedures we adopt, which shall replace the COCUS model currently being used by the NANPA to collect forecast and utilization data, are detailed below. [*7598] As with the COCUS model, the NANPA shall continue to serve as the single point of contact for collection of forecast and utilization data. The NANPA's neutrality and ongoing interaction with code holders makes it the ideal repository for these data. Moreover, the NANPA is responsible for allocating numbers within the NANP [**59] and making forecasts of exhaust, and must rely on this data to carry out these functions.

52. The NANPA shall, within 15 days of the release of this *Report and Order*, develop a reporting form for both utilization and forecast data reporting and submit it both in paper and electronic form to the Common Carrier Bureau for review and submission to the Office of Management and Budget. The form shall incorporate the reporting requirements we establish in this *Report and Order*. n92 In addition to the utilization and forecast data, the NANPA shall ensure that it has a means of associating each carrier's reported data with carrier identification information. This information shall include: company name, company headquarters address, OCNs, parent company OCN(s), and the primary type of business in which the numbers are being used.

n92 *See infra* PP53-73.

53. The NANPA indicates that the costs of the data collection will be minimized if the data are reported electronically. n93 Therefore, we will require all carriers filing data to file electronically. We understand that currently not all carriers will be able to file electronically initially, and that some carriers may have [**60] a long-term difficulty establishing electronic filing capability. Nonetheless, we believe that electronic filing is the most efficient and least costly method available. We have had *ex parte* discussions with the NANPA regarding this issue and we have been assured that electronic filing by carriers of all sizes and technical capabilities can be accommodated. The NANPA has contemplated three alternative methods for collecting data. For large and mid-sized carriers, the preferred method of reporting would be an electronic file transfer. The NANPA also believes that it can develop a spreadsheet format that could be used by smaller carriers that only have personal computers. As a second option, the NANPA indicates that it could develop Internet-based online access to the data base. Carriers could, in a secure fashion, use the Internet to log into the NANPA's website and enter their data manually into an electronic version of the reporting form. We note that every carrier that can dial up using an ISP can use this method, and that this method is not any more burdensome on a carrier than paper filing. Finally, as a last resort for very small carriers that do not have access to an ISP, [**61] the NANPA is considering permitting them to fax their data submissions and the NANPA would, as an enterprise service, transcribe the data into an electronic format. We direct the NANPA to develop and establish these data entry mechanisms within 45 days of the publication of this *Report and Order* in the Federal Register.

n93 *See* Letter from Leonard S. Sawicki, NeuStar, to Magalie Roman Salas, FCC, dated December 21, 1999.

54. The NANPA shall examine each data submission for inconsistencies or anomalies. The NANPA shall work with the NANC to formulate criteria for determining what types of submissions should be deemed inconsistent or anomalous. If the NANPA identifies any significant inconsistencies or anomalies in a carrier's data, the NANPA shall inform the [*7599] submitting carrier of its findings, after which the carrier shall have five days to explain the inconsistencies or anomalies, or to resubmit the data. If, after the discussions with a carrier, the NANPA preliminarily concludes that that carrier's data are insufficient, then the NANPA shall report that preliminary conclusion to the commission in the state where the carrier is providing service, and to the [**62] Common Carrier Bureau. We delegate to the states the authority to make a determination on the validity of the data and to instruct the carrier on how any deficiencies should be remedied. The NANPA shall assign no additional resources to that carrier until the appropriate state commission has resolved all questions regarding the inconsistency or anomaly.

55. The NANPA shall also continue to compile, examine, and analyze the forecast and utilization data submitted by reporting carriers to carry out its NANP management responsibilities, which includes tracking and reporting on number utilization throughout the United States, and projecting the life of individual NPAs as well as the NANP. This includes, but is not limited to, conducting NPA and NANP exhaust studies, and developing a comprehensive database of NPA-NXXs that identify which numbering resources are being utilized, and which remain in the NANP inventory. We note that the NANPA is required under our rules to protect the confidentiality of proprietary data and competitively sensitive information. n94 We clarify that this requirement shall apply to electronic data as well.

n94 47 C.F.R. § 52.13(c)(7).

56. Further, we direct [**63] the NANC to consult with the NANPA to develop an estimate of the costs the NANPA will incur to carry out the mandatory reporting requirements and provisions, including, but not limited to, compilation, examination and analysis of such data, as set forth in this *Report and Order*. We request the NANC to submit this cost estimate to the Common Carrier Bureau within 30 days of the release of this *Report and Order*.

3. Data Elements for Forecast Reporting

57. The current COCUS requires each reporting carrier to provide year-by-year, five-year projections of its resource needs. Although no party specifically addressed this issue, we believe that we should formally adopt this reporting requirement in our newly established reporting framework. We find that the five-year forecast mechanism provides the NANPA with sufficient information to make its NANP and NPA forecasts, while at the same time, not burdening carriers. Therefore, we require each carrier to provide a year-by-year, five-year forecast of its expected numbering requirements.

58. *Initial and Growth Codes*. Both the LINUS and the Hybrid models propose that forecast numbering resource requirements be reported in terms [**64] of initial and growth codes. n95 In [*7600] its comments, the NANPA continues to support this proposal, n96 and no commenting party opposed it. This distinction is important in forecasting NANP exhaust because it permits the NANPA to distinguish between codes that are being requested to establish a footprint from those that are being used to expand service within existing coverage areas. We believe this distinction is consistent with our desire to have as complete a picture as possible of numbering resource use, and therefore require carriers to separate initial from growth codes in their forecasts.

n95 *See* NANC COCUS Recomendation Report, June 30, 1999, at 11. As stated above, an "initial" code is the *first* NXX code assigned to the carrier at a new switching entity, point of interconnection (POI) or unique rate center, and the NANPA assigns initial codes to the extent required to terminate traffic at the switch or POI. When an applicant requests more than one NXX code per rate center, switching entity or POI, the first NXX code assigned to that rate center is considered an initial code and all of the other NXX codes are considered growth codes. A "growth" code is an NXX code requested for an established switching entity, POI or rate center when the telephone numbers available for assignment in previously assigned NXX codes will not meet expected demand. [**65]

n96 *See* NANPA comments at 7; Ohio Commission comments at 12.

4. Data Elements for Utilization Reporting

59. In the *Notice* we requested comment on the specific data elements that carriers should be required to report. n97 We sought comment on whether all NXX code holders should be required to report the status of all telephone numbers within the NXX blocks assigned to them (using the numbering status definitions defined in the *Notice*), or whether more aggregated reporting would provide sufficient data to track number utilization accurately. n98

n97 *Notice, 14 FCC Rcd at 10355*.n98 *Id.*

60. We will require carriers to report five categories of numbers: *assigned, intermediate, reserved, aging*, and *administrative*. n99 The need for use-specific data is widely supported by the states and at least some carriers have agreed that uniform reporting of these use categories would be reasonable. n100 We believe that the additional detail provided by reporting on these major uses of numbers will improve the accuracy of the NANPA's projections. In addition, the NANPA's ability to evaluate requests for new NXX blocks will [**66] be substantially improved by having detailed information on how numbers are being used. Similarly, the states, which are responsible for area code relief, will benefit from having this specific data to use in monitoring carrier requests for numbering resources.

n99 Because the sixth category, "available numbers," is a residual category, we will not require carriers to report such numbers.n100 *See* Massachusetts Commission, Attachment A, Outline of State Response to Numbering NPRM comments at 6. *See also* Letter from Luisa L. Lancetti, Counsel to AirTouch, to Magalie Roman Salas, FCC, dated February 2, 2000.

61. We reject the assertion of several commenters who argue that only highly aggregated data need be reported." n101 These commenters generally believe that the exclusive purpose of routine reporting of forecast and utilization data is to predict the exhaust of NPAs and the NANP, so there is no need to collect utilization information by numbering use category. We disagree; these data are especially valuable to identify carriers that are holding excessive inventories of numbers and to facilitate reclamation of those numbers. We also disagree with [*7601] some [**67] of the states that argue that carriers should report on all categories of number utilization to the NANPA. n102 As we previously noted, our goal is to balance the need for data against costs of collecting, providing, and analyzing it, and we find that requiring reporting of only the five major categories listed above properly balances these two concerns.

n101 SBC, for instance, proposes that data reported to the NANPA should consist of the total quantity of *assigned numbers, numbers unavailable for assignment,* and *numbers available for assignment.* SBC comments at 52. *But see* Bell Atlantic comments at 10-11 (recommending that carriers should report only *available numbers*).n102
Response to Numbering NPRM comments at 6.

62. We also adopt specific record-keeping requirements for audit purposes. Although we do not, in this *Report and Order*, set forth auditing requirements, we anticipate doing so in a subsequent order in this docket. We believe that all carriers should maintain detailed internal records of their number usage in categories more granular than the five [**68] for which they are required to report not only as a good business practice, but to facilitate auditing by the NANPA and by state commissions in the future. n103 We therefore require carriers to maintain internal records of their numbering resources for the additional eight subcategories of numbers identified in this *Report and Order*, n104 in addition to the five categories which they must report. n105 Carriers required to track the additional eight subcategories of numbers should maintain this data for a period of not less than five years. We clarify, however, that these additional categories of number usage need not be reported to NANPA at this time. The record does not indicate that the requirement to track the eight subcategories of numbers would be burdensome to rural carriers. But to the extent that non-LNP-capable rural carriers find this record-keeping requirement to be burdensome, we would entertain waiver requests, including joint waiver requests.

n103 SBC comments at 52; Bell Atlantic comments at 10-11; Ameritech comments at 18.n104 The 8 subcategories are: (1) *soft dialtone numbers*; (2) *ported-out numbers*; (3) *dealer number pools*; (4) *test numbers*; (5) *employee/official numbers*; (6) *Local Routing Numbers*; (7) *Temporary Local Directory Numbers*; and (8) *wireless E911 emergency services routing digits/key (ESRD/ESRK) numbers.* [**69]

n105 *See infra* P60.

5. Frequency of Reporting

63. In our *Notice* we tentatively concluded that carriers should report utilization and forecast data on a quarterly basis, rather than the current annual reporting cycle. n106 We proposed this reporting frequency because the pace of number exhaust has substantially increased in many parts of the country and we believed that annual data would fail to provide an accurate picture of these changes. In establishing a reporting frequency, we sought comment on whether we should differentiate between carriers in high-growth and low-growth NPAs and requested commenters to explain how we should distinguish between them. n107 In the alternative, we sought comments on the possibility of establishing a reporting cycle modeled after the current "Jeopardy COCUS," where an additional round of forecast data collection is required when jeopardy is first declared in an area code. n108 With respect to this alternative, we requested comment on whether such a [*7602] strategy would be sufficient to provide additional utilization and forecast data in high-growth NPAs. n109 Finally, we sought comment on whether there are other appropriate [**70] distinctions that should be drawn among carriers with respect to reporting frequency. n110

n106 *Notice, 14 FCC Rcd at 10356.*n107 *Id.*n108 *Id.*n109 *Id.*n110 *Id.*

64. As a general matter, more frequent reporting of utilization and forecast data should improve the NANPA's ability to forecast NPA and NANP exhaust, as well as our ability to develop cogent policy with respect to numbering resources. More frequent reporting can also spur carriers into improving their management of numbering resources. The need for more frequent reporting is particularly acute in NPAs where pooling will be implemented because these NPAs, almost by definition, have high demands for numbering resources. The need for more frequent reporting must be balanced, however, against the cost such reporting will impose on the carriers and the NANPA.

65. Although many of the states and some carriers strongly endorse quarterly reporting, we are reluctant to impose this requirement. n111 The record does not support such frequent reporting at this time given the additional costs quarterly reporting would impose on carriers. We also question whether [**71] a quarterly cycle would give the NANPA sufficient time to compile the reported data and analyze it. Therefore, we accept the recommendations of AT&T, GTE, PCIA, the NANC and others, who argue that the maximum number of reports that any carrier should be required to file in any year is two and that, in markets where there is little change in numbering utilization, annual reporting is adequate. n112

n111 Massachusetts Commission, Attachment A, Outline of State Response to Numbering NPRM comments at 6; California Commission comments at 11-13; Pennsylvania Commission comments at 12; Pennsylvania Consumer Advocate and NASUCA comments at 5.n112 GTE comments at 27; PCIA reply comments at 32.

66. Many of the carriers responding to our *Notice* proposed that we adopt the frequency scheme contained in the Hybrid model. Under the proposed Hybrid model, carriers operating in NPAs where pooling has been implemented or where jeopardy is projected to occur within the next five years would report semiannually. All other carriers would report annually. The advantage of this requirement is that it removes all subjectivity from the decision of how carriers should report. While this formalistic [**72] scheme is theoretically appealing, we are reluctant to adopt it. The problem with this approach is that area code exhaust, at this time, cannot be reliably projected. The NANPA's recent 1999 COCUS and NPA exhaust analysis demonstrates the difficulty in accurately projecting exhaust. n113 The report compares the predicted exhaust date for each active NPA in the United States as of April 1999 and as of December 1999. Between these two dates spanning nine months, the NANPA changed the projected exhaust dates for 70 NPAs by an average of 3.8 years by NPA. n114 For each of these NPAs, the NANPA included an [*7603] explanation for the difference in the exhaust projections. Several times the NANPA cited an increase in the code issuance growth rates that were four or more times higher than those projected just nine months prior to that. This demonstrates that change can happen very quickly. Thus, rules based on projected exhaust time horizons are not sufficient for establishing a reporting frequency.

n113 NANPA Report to the NANC, prepared by NeuStar, January 18, 2000.n114 *Id.*

67. The basic frequency of reporting shall be semi-annually. We, however, delegate to the state [**73] commissions the authority to reduce the frequency of reporting for carriers in their states to annually. n115 For example, state commissions may find it desirable to decrease the reporting frequency, where an NPA is significantly far from projected exhaust, or where there is very little demand for numbering resources and low growth expectancy because of limited competition or sparse population. State commissions must notify the Common Carrier Bureau and the NANPA prior to exercising this delegated authority. Each carrier shall submit to the NANPA forecast and utilization data on or before February 1, for the period ending on December 31, and on or before August 1, for the period ending on June 30 of each year. Carriers in NPAs where state commissions reduce the filing requirement to an annual reporting shall report on August 1 of each year. All carriers shall file their first report no later than August 1, 2000.

n115 Massachusetts Commission, Attachment A, Outline of State Response to Numbering NPRM comments at 6.

6. Granularity of Reporting

a. Geographic Scope of Reporting

68. In our *Notice* we asked whether we should require carriers to report their forecast and [**74] utilization data per NPA or per rate center. n116 Commenters were generally split on this question. Several commenters, representing primarily state commissions, supported reporting at the rate center level. n117 Carriers, on the other hand, argued that reporting at the NPA level would be adequate except where pooling is taking place. n118 NeuStar, the current NANPA, has indicated that, for the purpose of reporting utilization data, carriers need not report the name of the rate center in which the NXX is being used because that information could be obtained from the Local Exchange Routing Guide (LERG). n119 To ensure that the reporting requirement is not unduly burdensome, we conclude that reporting data at the NPA level is sufficient for mandatory semi-annual reporting of historical utilization data. For forecast data reporting, we adopt the approach contained in the Hybrid model, which would require non-pooling carriers to report their forecast data at the NPA level and pooling carriers to report their forecast data at the rate center level.

n116 *Notice, 14 FCC Rcd at 10355.*n117 Massachusetts Commission, Attachment A, Outline of State Response to Numbering NPRM comments at 6. [**75]

n118 Bell Atlantic comments at 10; Ameritech comments at 20; AT&T comments at 21.n119 *See* Letter from Leonard S. Sawicki, NeuStar, to Magalie Roman Salas, FCC, dated December 21, 1999.

[*7604] **b. Reporting at the NXX Level or Thousands-Block Level**

69. In our *Notice,* we stated that we could require numbering utilization data to be reported per full NXX or per thousands block. n120 We noted the possibility that carriers engaged in pooling might have to report at the thousands-block level while we would permit non-pooling carriers to report at either the NXX level or at the thousands-block level. We asked commenters to discuss the merits of requiring all carriers to report at the thousands-block level, as opposed to requiring carriers to report at the thousands-block level only when that NXX is subject to pooling. n121 We then asked the commenters to compare the benefits of such detailed reporting with its cost. n122 We also considered letting all carriers report at the NXX level, unless the numbering resources were in one of the largest 100 MSAs or within a jeopardy NPA. n123

n120 *Notice, 14 FCC Rcd at 10355-56.*n121 *Id. at 10355.* [**76]

n122 *Id. at 10355-56.*n123 *Id. at 10356.*

70. We also recognize that, in areas where LNP is not available, the burden on some small or rural carriers may outweigh the value of such granular reporting data. Therefore, we will permit rural telephone companies, as defined in the Act, n124 to report their utilization data at the NXX level. All other carriers must report their utilization data at the thousands block level.

n124 *47 U.S.C. § 153*(37).

71. Some wireline companies oppose uniform thousands-block reporting in favor of a policy of limiting such reporting to regions where thousands-block number pooling has already been implemented. n125 Similarly, the wireless industry generally objects to uniform thousands-block reporting because wireless carriers can receive numbers only in full NXX blocks, and cannot participate in thousands-block number pooling. n126 These commenters do not persuade us. As we previously stated, number utilization data will be used for more than simply projecting NPA and NANP exhaust. We believe that thousands-block reporting fits into our general [**77] reporting scheme because it provides a level of detail that will permit decision making with respect to issues such as (1) the efficacy of thousands-block number pooling in specific NPAs, (2) identifying thousands blocks available for pooling, and (3) monitoring preservation protocols for protecting uncontaminated thousands-blocks. We note that several state commissions share this view. n127 In areas where LNP is not available, however, rural carriers tend to use less numbering resources. We therefore exempt rural carriers in non-LNP areas from the requirement [*7605] to report their utilization data at the thousands-block level; rural carrier in non-LNP areas will be required to report their utilization data only at the NXX level; and all other carriers must report their utilization data at the thousands-block level. n128

n125 CinBell comments at 8; Ameritech comments at 20; Bell Atlantic comments at 10; GTE comments at 23.n126 PCIA comments at 32.n127 *See, e.g.*, Massachusetts Commission, Attachment A, Outline of State Response to Numbering NPRM comments at 6; Ohio Commission comments at 9; North Carolina Commission comments at 6; California Commission comments at 13-14. [**78]

n128 *See supra* P42.

72. We do not believe that the cost of thousands-block reporting will be significantly higher than reporting at the NXX level if the data are managed electronically. Moreover, no cost estimates were submitted into the record. As noted above, we find that for any reporting system to operate efficiently, all carriers must report electronically. As a consequence, we believe that all or virtually all carriers should use electronic means to track their use of numbering resources. With electronic tracking of numbers, the level of detail contained in reports to the NANPA is largely a matter of the up-front programming effort in designing a tracking system and preparing reports from it. We note that carriers with similar systems could jointly design such a program, and share the cost. This would be especially true for small carriers. Further, we believe that the difference in programming costs between NXX and thousands-block reporting will be small. Yet, we believe the benefits of more detailed information will be substantial. Greater detail will result in better management of the NANP's resources. Consistent reporting by all carriers may also reduce the NANPA's [**79] costs, to the extent that reporting at different levels of aggregation will require the NANPA to design databases and analyses that can accommodate mixed data.

73. For forecast data, we require carriers to develop their forecasts of numbering resource needs based on whether the forecast is for resources in a pooling or non-pooling NPA and whether they will be pooling. In pooling areas,

forecast data shall be reported at the thousands-block per rate center level for pooling carriers and at the NXX level per rate center for non-pooling carriers. n129 In non-pooling areas, forecast data shall be reported at the NXX per NPA level because carriers will receive their resources at this level.

n129 This reporting scheme was supported by the NANC. *See* NANC COCUS Recommendation at 33-34.

7. State Commissions' Access to Data and Confidentiality of Data

a. Background.

74. In the *Notice*, we sought comment on what, if any, special provisions should be established to protect the confidentiality of data disclosed to the NANPA, the Commission, and state commissions. n130 We noted that under Exemption 4 of the Freedom of Information Act (FOIA), the Commission need not disclose [**80] "commercial or financial information . . . [that is] privileged or confidential." n131 We sought comment on what specific information, based on the [*7606] proposed reporting requirements, would fall within this exemption. n132 The NANC recommended that states be given access to aggregate utilization data. n133 Also, the NANC recommended that states be allowed to obtain carrier-specific data only when a legally enforceable confidentiality agreement is in place. n134 We sought comment on the NANC's recommendations concerning use of confidential data by the state commissions. n135

n130 *Notice, 14 FCC Rcd at 10356.*n131 *See id., see also 5 U.S.C. § 552*(b)(4). Under FOIA, the Commission is required to disclose agency records on request, unless they contain information that fits within one or more of the exemptions from the Act. Even when particular information falls within the scope of a FOIA exemption, agencies are generally afforded the discretion to disclose the information on public interest grounds. *Chrysler Corp. v. Brown, 441 U.S. 281, 292-94 (1979).*n132 *Notice, 14 FCC Rcd at 10356.* [**81]

n133 *See* NANC Meeting Minutes, Nov. 18-19, 1998.n134 *Id.* As a sanction, NANC proposes that a state's violation of the confidentiality requirement would be the loss of the prerogative to obtain such data in the future. *Id.*n135 *Notice, 14 FCC Rcd at 10357.*

b. Discussion

75. As the Ohio commission correctly notes, numbering resource management is a cooperative effort between the Commission, states, and the NANPA. n136 We find that the states have legitimate reasons for obtaining disaggregated, carrier-specific data. The states are responsible for NPA relief decisions and other delegated numbering issues. Such decisions must be based on specific utilization data. We are convinced that state commissions will be better able to meet their obligations with respect to area code relief with the information that we have determined is necessary. Therefore, we grant all states access to the semi-annual reported data, subject to appropriate confidentiality protections as described below. We also find that the Pooling Administrator shall have access to carrier specific data and must protect proprietary and competitively sensitive [**82] information from public disclosure.

n136 Ohio Commission comments at 13.

76. We reject North Carolina's assertion, however, that the states should continue to have the authority to collect additional utilization and forecast data independently of what we are ordering the carriers to report to the NANPA. We will not delegate authority to the states to impose additional regularly scheduled reporting requirements on any carriers. Such independent authority would undermine the purpose of establishing regularly scheduled federal reporting requirements, namely a uniform standard that all carriers could use in their record keeping and reporting activities. We have carefully reviewed the various proposals for reporting and have balanced the need for information against industry and the NANPA costs and have set forth our determinations above. Therefore, in granting states access to the federally ordered reports, we are eliminating the need for states to require carriers to report utilization and forecast data on a regular basis. Thus, we supersede the authority specifically delegated to some states to require such reporting. n137 We do not intend, however, to supplant independent state [**83] authority exercised pursuant to state law unrelated to number administration, but we encourage state commissions to [*7607] rely on the reporting requirements that we adopt herein. Moreover, we do recognize that from time to time a state may need to audit a specific carrier and will need access to more granular data. Therefore, our prohibition on state-ordered reporting does not apply in instances where

states need to gather data for a specific purpose, as long as these data reporting requirements do not become regularly scheduled state-level reporting requirement.

n137 *See California Delegation Order, 14 FCC Rcd at 17497, 17499; Florida Delegation Order, 14 FCC Rcd at 17521; Maine Delegation Order, 14 FCC Rcd at 16445-46, 16450; Massachusetts Delegation Order, 14 FCC Rcd at 17460; New Hampshire Delegation Order* at PP12, 13, 17; *New York Delegation Order, 14 FCC Rcd at 17478, 17480; Ohio Delegation Order* at P16; *Texas Delegation Order* at P28; *Wisconsin Delegation Order* at PP12, 15.

77. Several carriers, [**84] including GTE, AT&T, and PCIA, argue for limiting state access to the utilization forecast data. n138 These parties believe that only aggregate data are necessary to assist the states in their code relief activities. n139 GTE and PCIA assert that the states need rely only on the NANPA for NANP exhaust and area code relief information. n140 PCIA asserts that, with respect to NPA exhaust, it is the NANPA's responsibility to inform the states of the status of an NPA, and therefore the states have no real need to see carrier-specific data. n141 PCIA and AT&T are concerned that the states might publicly disclose these commercially sensitive data. n142 We reject these arguments. These commenters ignore the fact that the states have an important role in managing numbering resources and providing area code relief. As discussed more fully below, we are requiring states that are seeking access to the reported data to explicitly treat data received from the NANPA as confidential.

n138 AT&T comments at 19; GTE comments at 24; PCIA comments at 31-33.n139 GTE comments at 24.n140 GTE comments at 24; PCIA comments at 33.n141 PCIA comments at 33.n142 PCIA comments at 33; AT&T comments at 19. [**85]

78. Most commenters generally agree that the number utilization and forecast data submitted by carriers should be treated as confidential and should be protected from public disclosure. n143 Carriers argue that this data is highly sensitive "commercial information" and would in effect provide competitors access to their business plans and strategies, location of customers, expansion plans and market growth. n144 We agree, and find that disaggregated, carrier-specific forecast and utilization data should be treated as confidential and should be exempt from public disclosure under *5 U.S.C. § 552*(b)(4). n145

n143 Nextel comments at 21; RCN comments at 6; Level 3 comments 6; PCIA comments at 32.n144 GTE comments at 29; Sprint comments at 14-15; Ameritech comments at 20-21; MediaOne comments at 18-19; Connect comments at 7.n145 *See* MCI WorldCom comments at 42.

79. We further agree with commenters that aggregated data (such as each carrier's NPA wide utilization rate and number of NXXs assigned) do not require the type of confidential protections that we adopt here. n146 Aggregated data do not provide competitors with detailed [**86] [*7608] information on the level of a carrier's activity or operational plans in a specific local exchange market.

n146 SBC comments at 55; MCI WorldCom comments at 42; GTE comments at 29; AT&T comments at 19; Ameritech comments at 21.

80. Despite our conclusion that disaggregated utilization and forecast data should be treated as confidential information and should not be publicly disclosed, we also recognize, as do many commenters, that state commissions may require access to this data to effectively carry out number administration duties. n147 In fact, the record indicates that it is not uncommon for state commissions to receive confidential data from carriers, n148 and that some states have already received such data and conducted utilization studies on their own. In seeking to balance this need with confidentiality concerns, some commenters suggest that state commissions receive only aggregate carrier data, n149 rather than data on individual carriers, or that state commissions only receive data where there is a legally enforceable confidentiality agreement in place. n150 As discussed above, we decline to adopt either restriction.

n147 SBC comments at 55; California Commission comments at 15; New Jersey Commission comments at 3; CTIA comments at 15; MCI WorldCom comments at 39; Sprint comments at 14-15. [**87]

n148 Maine Commission comments at 11.n149 PCIA comments at 31.n150 Choice One comments at 6; RCN comments at 6; Level 3 comments at 7.

81. 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. We have delegated authority to state commissions to initiate area code relief planning, implement area code relief, adopt NXX rationing in conjunction with area code relief decisions, order voluntary thousands-block number pooling trials, and set aside a certain number of NXX codes for thousands-block number pooling. n151 In this *Report and Order,* we delegate additional numbering authority to state commissions to require more efficient management of thousands blocks and to implement mandatory thousands-blocking pooling under certain conditions. We find that their ability to carry out these delegations of authority would be hampered if they are not allowed access to carrier forecast and utilization information. For example, number forecast and utilization data can better enable state commissions to assess when, where, and the type of [**88] area code relief measure that should be adopted. Therefore, state commissions shall have access to the disaggregated data submitted to the NANPA, and may choose to request copies directly from carriers, provided that the state commission has [*7609] appropriate protections in place (which may include confidentiality agreements or designation of information as proprietary under state law) that would preclude disclosure to any entity other than the NANPA or the Commission. We decline to require a specific mechanism to ensure confidential treatment.

n151 *See* Implementation of the Local Competition Provision of the Telecommunications Act of 1996, *Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392, 19512, 19516 (1996)* (*Local Competition Second Report and Order*); *see also Pennsylvania Numbering Order, 13 FCC Rcd at 19025, 19027-30.* Area code relief refers to the process by which central office codes are made available when there are few or no unassigned central office codes remaining in an existing area code and a new area code is introduced. 47 C.F.R. § 52.19 (a)-(b). Area code relief includes planning for area code "jeopardy," which is a situation in which central office codes may become exhausted before an area code relief plan can be implemented. Several states have also received interim authority to implement certain numbering resource optimization measures (*e.g.*, establish NXX code allocation standards, reclaim unused or underutilized numbering resources, require sequential numbering assignment). [**89]

82. Some state commissions have requested access to other information such as carriers' applications for initial or growth numbering resources. Like forecast data, this information reveals commercial information, business plans and strategies, expansion plans, location of customers, and market growth. Consequently, we find that these applications should be deemed confidential. We will not limit a state commission's access to applications for initial or growth numbering resources, but we require the state commissions to treat this data, as well as forecast and utilization data, as confidential. We are aware that there are two states that have "open records" statutes that may prevent the state from providing confidential protection for such sensitive carrier information. n152 In situations such as these, we will work with the state commissions to enable them to obtain access to such information in a manner that addresses the state's need for this information and also protects the confidential nature of the carrier's sensitive information. We also clarify that state commissions must continue to permit the NANPA to process requests for numbering resources in a timely fashion after receipt [**90] of such information.

n152 *See* Texas Government Code, Chapter 552; Georgia Official Code § 50-18-70.

8. Enforcement

83. In our *Notice* we asked parties to comment on various enforcement issues and what actions we should take to enhance the enforceability of numbering utilization and optimization. n153 Some of the enforcement measures that we discussed included giving the NANPA the authority to withhold numbering resources as a sanction for violating CO Code Assignment Guidelines, especially where the violation involves failure or refusal to supply accurate and complete utilization or forecast data. n154 We sought comment on the tentative conclusion and on the circumstances in which the NANPA should be empowered to withhold numbering resources. n155

n153 *Notice, 14 FCC Rcd at 10362.*n154 *Id.*n155 *Id.*

84. Although we decline to address all of the enforcement issues raised in the *Notice* at this time, we find it appropriate to address, in light of our imposition of a mandatory reporting requirement, our tentative conclusion that the

NANPA should be empowered to withhold numbering resources as a sanction for failure [**91] or refusal to comply with any mandatory reporting requirements. n156 We adopt our tentative conclusion and order the NANPA to withhold numbering resources from any U.S. carrier that fails to provide its utilization and forecast [*7610] information as mandated in this *Report and Order* until such information has been provided. There is broad support for this requirement. n157 If it appears that a carrier has failed to provide the necessary reports, NANPA shall notify the carrier in writing and allow ten days for the carrier to either provide the report or show that it already has done so. We believe that this step is necessary to ensure that the NANPA, states, and we have information from all U.S. carriers to facilitate proper management of the NANP. With respect to non-U.S. carriers participating in the NANP, we request that they voluntarily comply with the reporting requirements that we have established in this *Report and Order*. Although these carriers are not obliged to track and report numbering resource use, we believe that most carriers will support our efforts to ensure that the NANPA has the best and most comprehensive picture of numbering resource use. This will [**92] greatly aid in extending the life of the NANP and will help postpone the need for the very costly process of expanding the NANP.

n156 Several commenters recommend this sanction. *See, e.g.*, Bell Atlantic comments at 12; Pennsylvania Consumer Advocate at 5.n157 Bell Atlantic comments at 12; AT&T comments at 24; CinBell comments at 9; Ohio Commission comments at 14; Wisconsin Commission comments at 4.

D. Verification of Need for Numbers

a. Background

85. Under the current CO Code Assignment Guidelines, numbering resources are assigned in blocks of 10,000, referred to as central office codes or NXX codes, to entities (code holders) for use at a switching entity or point of interconnection (POI) n158 that they own or control. n159 The NANPA assigns NXX codes pursuant to the assignment criteria specified in the CO Code Assignment Guidelines on a first-come, first-served basis. n160

n158 The POI is the carrier's physical point of interconnection to the public switched telephone network (PSTN) for the purpose of interchanging traffic on the PSTN.n159 CO Code Assignment Guidelines at § § 3.1, 4.1.n160 *Id.* at § 4.4.

86. Carriers generally obtain [**93] initial codes to establish a commercial presence, or "footprint," in a particular rate center or geographic area. The CO Code Assignment Guidelines require the applicant to certify that it needs an initial code to meet routing, billing, regulatory or tariff requirements. n161 The CO Code Assignment Guidelines, however, specify that utilization criteria or projection will not be used to justify an initial NXX code assignment. n162

n161 *Id.* at § 4.1.3. An applicant may also obtain an initial NXX code in order to establish an initial Location Routing Number (LRN) per POI or switching entity for each Local Access and Transport Area (LATA), if the carrier has no existing resources available for LRN assignment. *Id.* at § 4.1.3.1.n162 *Id.* at § 4.1.

87. Under the CO Code Assignment Guidelines, an applicant for a growth code must certify that existing codes associated with that switch, POI, or rate center will exhaust within 12 months, and must submit to the NANPA a Months-to-Exhaust (MTE) Worksheet in order to [*7611] obtain a growth code. n163 Growth code applicants are also required to maintain the MTE Worksheet in their files for audit purposes. In jeopardy NPAs, [**94] applicants seeking a growth code must certify that existing NXX codes will exhaust within six months. n164

n163 *Id.* at § 4.2.1. The CO Code Assignment Certification Worksheet-TN Level MTE Worksheet, set forth in Appendix B to the CO Code Assignment Guidelines, requests data on telephone numbers available for assignment, growth history for the past six months, and projected demand for the coming 12 months. *See* CO Code Assignment Guidelines at Appendix B n.1.

n164 Jeopardy is defined as a situation where the forecasted and/or actual demand for NXX resources will exceed the known supply during the planning/implementation interval for relief. *See* CO Code Assignment Guidelines at § 9.3, 13.0. In jeopardy NPAs, the MTE Worksheet requests data on telephone numbers available

for assignment, growth history for the past six months, and projected demand for the coming six months. CO Code Assignment Guidelines at § 9.4.4.1.

b. Discussion

88. With the advent of local competition and the introduction of new technologies, we have seen an exponential increase in requests for numbering resources. Thus, it has become necessary to adopt policies to ensure that carriers request [**95] and receive numbering resources only when and where needed. n165 Unlike the current process, which for the most part requires carriers to "certify" but not prove their need for additional numbering resources, we implement a process that requires carriers to demonstrate that they need numbering resources to provide services. Often numbering resources have been assigned prematurely n166 or used inefficiently. n167 The absence of reliable needs-based verification standards has resulted in numbering resources being distributed to carriers in a less than efficient or optimal manner. State commissions that have been faced with unprecedented demands for NPA relief share our concern over the manner in which numbering resources are being assigned and used. n168

n165 SBC comments at 42.

n166 For example, numbers have been assigned to carriers considerably before the carrier is prepared to serve customers.

n167 For example, carriers have activated growth codes while a substantial number of unused resources exist within existing NXX codes.

n168 Maine Commission comments at 5-14.

89. The Pennsylvania Commission states that the absence of numbering assignments has allowed carriers [**96] to build excessive inventories for which they do not have an immediate need, suggesting that allowing carriers merely to "certify a need" is inadequate. n169 The current self-certification process, according to the Pennsylvania Commission, resulted in two carriers receiving over 100 central office codes (over one million numbers) upon activation of a new area code in Western Pennsylvania; this, in turn, shortened the projected exhaust date for the new area [*7612] code by three years. n170 Other commenters overwhelmingly support some form of "needs-based" requirement for assigning numbering resources. n171

n169 Pennsylvania Commission comments at 8.

n170 Pennsylvania Commission comments at 9.

n171 Ameritech comments at 14; New York Commission comments at 4-5; AT&T comments at 14; Massachusetts Commission, Attachment A, Outline of State Response to Numbering NPRM at 3-5; Maine Commission comments at 5; Bell Atlantic comments at 7; GTE comments at 18; Pennsylvania Commission comments at 5-9; Sprint comments at 9.

90. The current CO Code Assignment Guidelines do not require applicants to demonstrate their readiness to use initial codes, or demonstrate a need in order to [**97] obtain growth codes. Although some might suggest that the MTE Worksheet is needs-based, historically it has been primarily based on the carrier's untested marketing projections. Also, carriers are not held accountable for these forecasts, *i.e.*, there is no penalty for inaccurate or unjustified forecasting. The absence of verifiable proof that a carrier needs numbering resources and is prepared to use them to serve customers may encourage some carriers to obtain numbers that they are unable to use in the near term. This behavior is especially likely in NPAs that are approaching jeopardy, as carriers may be concerned that if they do not obtain an excess supply of numbers, they may not be able to maintain an adequate inventory once jeopardy has been declared.

91. We adopt national verification standards to improve the efficiency with which numbering resources are being allocated and used. Specifically, we adopt a more verifiable needs-based approach for both initial and growth numbering resources that is predicated on proof that carriers need numbering resources when, where, and in the quantity requested. We reject the contentions that assigning numbering resources on the basis of [**98] readiness to provide service or need will disproportionately affect new entrants. n172 On the contrary, the needs-based criteria that we adopt for initial and growth numbering resources establish standards by which all carriers, including new market entrants, can obtain the numbering resources that they need.

n172 Connect comments at 3.

92. Some commenters suggest that the CO Code Assignment Guidelines adequately address needs-based numbering assignment concerns because they allow for the return of unused numbering resources. n173 Reclamation procedures alone are inadequate for several reasons. First, they are an "after the fact" solution. We seek to ensure that numbering resources are allocated efficiently in the first instance. Second, the current reclamation process, as discussed in more detail below, has not been consistently enforced. Although we strengthen the reclamation process in this *Report and Order*, it will take some time before unused numbering resources can be identified and reclaimed. We also clarify that once carriers meet the requirements set forth herein for initial and growth numbering resources, the NANPA shall continue to assign numbering resources on [**99] a first-come, first served basis, to those carriers that satisfy the necessary requirements. Also, the NANPA should continue to scrutinize applications and appropriately [*7613] address those requests that raise concerns. Currently, the NANPA routinely notifies applicants when a request significantly exceeds historical growth. n174

n173 RCN comments at 2; Nextlink comments at 16; ChoiceOne comments at 4.

n174 NANC NANPA's CO Code Audit Obligations, Progress Report, Audits IMG, August 24, 1999, at Attachment 1.

1. Initial Numbering Resources

a. Background

93. We sought comment on whether applicants should be required to submit evidence with their applications for initial numbering resources that they are licensed or certified to provide service in the area in which they are seeking numbering resources. n175 Alternatively, we sought comment on whether we should place an obligation on the NANPA to check the status of an applicant's license or certification with the relevant state commission prior to issuing the requested initial numbering resources. n176 We further sought comment on whether applicants should be required to make a particular showing regarding the equipment [**100] they intend to use to provide service, the state of readiness of their networks or switches, or their progress with their business plan, prior to obtaining initial numbering resources, or whether any other type of showing should be required. n177

n175 *Notice, 14 FCC Rcd at 10348.*

n176 *Id.*

n177 *Id.*

b. Discussion

94. The record in this proceeding indicates that some carriers have obtained initial numbering resources for use in areas in which they are not licensed or certified. n178 Sprint also reports that the CO Code Assignment Guidelines' liberal standard for obtaining initial numbering resources allowed two carriers in eastern Massachusetts to obtain over 200 NXX codes that they never used. n179 The Maine commission reports that it discovered instances in which carriers had not received state certification to provide service in areas where they were requesting and receiving numbering resources. Consequently, the Maine commission, in cooperation with the NANPA, is now being notified when a carrier requests numbering resources, and the state commission advises the NANPA when the carrier has not yet been certified. n180 We recognize [**101] [*7614] that all state commissions may not have the resources to review all requests for numbering resources and then notify the NANPA when a carrier is not certified to provide service in their respective states. n181 We nonetheless encourage the type of initiative shown by the Maine commission and urge state commissions to continue to work cooperatively with the NANPA to help ensure that numbering resources are not prematurely assigned.

n178 Maine Commission comments at 5; Pennsylvania Commission comments at 6. The CO Code Assignment Guidelines require that carriers must be certified before they may obtain any NXX codes. CO Code

Assignment Guidelines at § 4.1.4. Wireline carriers seeking to provide service in a state must obtain a certificate from the state authorizing them to do so. Fixed wireless carriers may also be subject to state certification requirements, but states are specifically preempted from regulating entry of CMRS providers. *See 47 U.S.C. § 332*(c)(3)(A). However, all wireless carriers seeking to use spectrum to provide service in particular geographic areas must be licensed in those areas, under Title III of the Communications Act, by the Commission. [**102]

n179 Sprint comments at 10.

n180 Maine Commission comments at 5-6.

n181 Texas Commission comments at 7.

95. Most commenters agree with our tentative conclusion that applications for initial numbering resources should include proof that the applicant is licensed or certified to operate in the area in which it is seeking numbering resources. n182 A few commenters, however, suggest that additional requirements, such as proof of interconnection agreements and physical facilities, are overly burdensome and intrusive. n183 AT&T recommends that carriers be required to retain such documentation and make it available upon request. n184 Many commenters agree with our tentative conclusion that carriers must demonstrate that they are (or will be) ready to place the numbering resources in service by the activation date indicated in their application. n185 Sprint recommends imposing conditions on initial numbering resources, including documentation of planned services, certification, interconnection, and actual use of numbering resources. n186 PCIA suggests that carriers should be required to certify, pursuant to 47 C.F.R. § 1.16, that they will be ready to use the numbering resources [**103] within six months. n187

n182 MediaOne comments at 8; CinBell comments at 6; Ameritech comments at 18; North Carolina Commission comments at 5; GTE comments at 18; AT&T comments at 14; Pennsylvania Commission comments at 7.

n183 ALTS comments at 7, 8; Nextel reply comments at 10-12.

n184 AT&T comments at 14.

n185 SBC comments at 42; Sprint comments at 11-13; Pennsylvania Commission comments at 8; AT&T reply comments at 15-18; Small Business Alliance comments at 5.

n186 Sprint comments at 11-13; Bell Atlantic comments at 7-8.

n187 PCIA comments at 29. Section 1.16 authorizes unsworn declarations, in lieu of an affidavit, provided the declarant indicates that the declaration is true under the penalty of perjury.

96. We conclude that allowing carriers to build inventories before they are prepared to offer service results in highly inefficient distribution of numbering resources and is counterproductive to our goal of optimizing the use of numbering resources. Thus, a carrier shall not receive numbering resources if it does not have the appropriate facilities in place, or is unable to demonstrate that it will have them in place, to provide service. To achieve our [**104] goal of maximizing the use of numbering resources, we require applications for initial numbering resources to include documented proof that (1) the applicant is authorized to provide service in the area for which the numbering resources are requested and (2) the applicant is or will be capable of providing service within 60 days of the numbering resources activation date. n188

n188 *See* Sprint comments at 10-12; SBC comments at 44; Texas Commission comments at 7.

[*7615] 97. Specifically, carriers must provide, as part of their applications for initial numbering resources, evidence (*e.g.*, state commission order or state certificate to operate as a carrier) demonstrating that they are licensed and/or certified to provide service in the area in which they seek numbering resource. Carriers requesting initial numbering resources must also provide the NANPA appropriate evidence (*e.g.*, contracts for unbundled network elements, network information showing that equipment has been purchased and is operational or will be operational, business plans, or interconnection agreements) that its facilities are in place or will be in place to provide service within

60 days of the [**105] numbering resources activation date. The burden is on the carrier to demonstrate that it is both authorized and prepared to provide service before receiving initial numbering resources. n189 These requirements apply equally to carriers requesting an initial NXX code and those requesting an initial thousands-block pursuant to the pooling requirements we establish in this *Report and Order*.

n189 *See* Bell Atlantic comments at 8. *See also* State of Maine Public Utilities Commission, Investigation into Area Code Relief, Docket No. 98-634, *Procedural Order*, January 5, 2000; SBC comments at 44.

98. We direct the NANPA to withhold initial numbering resources from any carrier that does not comply with these requirements, and to notify the carrier of its decision to withhold numbering resources in writing within ten days of receiving the request. Carriers disputing the NANPA's decision to withhold initial numbering resources upon a finding of noncompliance may appeal the NANPA's decision to the appropriate state commission for resolution. We hereby delegate authority to state commissions to affirm or overturn the NANPA's decision to withhold initial numbering resources based [**106] on compliance with the above requirements.

99. We do not intend to circumscribe any carrier's ability to obtain initial numbering resources in order to initiate service. This requirement of additional information from applicants for initial numbering resources is to prevent actual or potential abuses of the number allocation process. In fact, we expect the establishment of these requirements to make more numbering resources available to carriers lawfully authorized by state commissions to provide local service by preventing unauthorized carriers from unlawfully depleting numbering resources.

100. We also clarify that our intent is to allow qualified carriers to seek one initial code or thousands-block for the purpose of establishing a footprint or presence in a particular rate center. If an initial request for numbering resources seeks more than one code or thousands-block, the additional codes or thousands-blocks will be treated as growth codes and must meet the requirements outlined in that section below.

2. Growth Numbering Resources

a. Criteria

101. With respect to carriers' ability to obtain growth numbering resources, we tentatively concluded in the *Notice* that applicants [**107] should be required to provide data that support their need to obtain additional numbering resources, as a means of preventing the building up (or "stockpiling") of numbers and carrying of excessive inventories. n190 We further tentatively [*7616] concluded that the NANPA may not allocate additional numbering resources to an applicant unless the applicant has made a satisfactory demonstration of need. n191 Applicants currently complete a MTE Worksheet prior to applying for growth numbering resources and provide the worksheet to the NANPA. n192 We sought comment on whether this process is an adequate demonstration of need for additional numbering resources. n193 We further sought comment on whether NANPA should be required to evaluate the MTE projection prior to allocating the requested numbering resources. n194 Alternatively, we sought comment on whether applicants should be precluded from requesting growth numbering resources from the NANPA until they have achieved a specified level of numbering utilization (or "fill rate") in the area in question. n195

n190 *Notice, 14 FCC Rcd at 10348.*

n191 *Id. at 10348-49.*

n192 *See supra* P87. [**108]

n193 *Notice, 14 FCC Rcd at 10349.*

n194 *Id.*

n195 *Id.*

102. The MTE Worksheet requires carriers to identify "available" numbering resources by rate center, historical monthly utilization for the preceding six months, and projected monthly utilization for the next twelve months.

Although some carriers oppose the imposition of specific utilization thresholds, they generally agree that applications for additional numbering resources should include both historical utilization as well as forecasted growth. n196 Ameritech recommends that applicants for additional numbering resources provide current utilization rates and/or inventory data. n197 MediaOne suggests that a shorter MTE period (e.g., 90 days) should be required in emergency situations as the basis for assigning growth numbering resources. n198

n196 Bell Atlantic comments at 8; Ameritech comments at 16; AirTouch comments at 19-20; GTE comments at 18.

n197 Ameritech comments at 16.

n198 MediaOne comments at 13.

103. The current MTE Worksheet provides limited information by which to evaluate a carrier's "need" for numbers. n199 To ensure that carriers obtain numbering resources [**109] when and where they are needed to provide service, we require carriers to provide evidence that, given their current utilization and recent historical growth, they need additional numbering resources. n200 We also require the NANPA to verify carriers' need. As discussed in more detail below, we adopt a minimum utilization threshold that non-pooling carriers must satisfy before obtaining additional numbering resources. Additionally, we seek comment in a *Further Notice* on the precise level of the utilization threshold. We exempt pooling carriers from this additional utilization threshold requirement in recognition of their requirement to donate to the pool uncontaminated and lightly [*7617] contaminated thousands-blocks that are not needed to maintain short-term inventory levels. n201 We may, however, revisit the question of whether all carriers should be subject to meeting a utilization threshold to obtain growth numbering resources if we find that such thresholds significantly increase numbering use efficiency.

n199 Maine Commission comments at 5.

n200 MCI WorldCom comments at 26.

n201 *See infra* P191.

104. We find that using the MTE Worksheet as the sole criterion [**110] for evaluating need is inadequate, because much of the data cannot be verified until after the carrier has already obtained the requested NXX code. n202 Second, the MTE forecast is largely subjective and dependent on good faith projections by each carrier. Further, there is no retrospective accountability to which carriers are held regarding forecasts. To increase the reliability of the MTE projections, we require all non-pooling carriers seeking growth numbering resources to report their utilization level, calculated using the formula below, for the rate center in which they are seeking growth numbering resources with all applications for additional numbering resources. n203 MTE projections must also be filed by rate center. These requirements will provide more reliable, verifiable information to help the NANPA improve efficient distribution of numbering resources and develop more accurate forecasts of both the NANP and individual NPA exhaust. n204

n202 Liberty Telecom comments at 4; Ohio Commission comments at 17; Florida Commission comments at 7; Pennsylvania Commission comments at 10.

n203 New York Commission comments at 6. AT&T agrees that if a utilization threshold is adopted that it should be based on rate centers and not NPAs. *See* AT&T comments at 16. [**111]

n204 Sprint reports that in Long Island, NY, the industry agreed to a process whereby growth code applications must include six months historical utilization and six months forecast data. If the forecasted monthly demand is within 15% average historical monthly utilization, a central office code will be assigned automatically. If, however, the forecasted demand exceeds 15% historical utilization, the applicant must explain the deviation before a growth code is assigned. Sprint comments at 12.

105. We require rate center-based utilization to be reported because it more accurately reflects how numbering resources are assigned. NPAs can cover large service areas with widely differing characteristics (*e.g.*, urban, rural). n205 Further, rate center-based utilization data may give state commissions additional information on which to evaluate rate center consolidation. n206 Moreover, rate center-based utilization allows carriers to obtain numbering resources in response to specific customer demands. For example, some NPAs contain both suburban/rural and urban areas. In such "mixed" NPAs, carriers might have high utilization rates in rate centers located in densely populated areas [**112] of the NPA, and lower utilization rates in the more rural or suburban rate centers in the NPA. As a consequence, a carrier may be unable to meet an NPA-wide utilization rate, even when it is running into numbering shortages in particular rate centers in more densely-populated areas.

n205 CTIA comments at 9.

n206 CTIA comments at 9 n.14.

[*7618] 106. We decline to require different utilization criteria for different market segments. *i.e.*, types of service providers. We do so in order to maintain competitive neutrality in the number assignment process. As competition continues to develop, we are likely to see more market segments converge, making it difficult to distinguish particular market segments. The suggestions that utilization requirements be distinguished by geography are accounted for in our requirement that carriers provide utilization data based on rate centers. The requirements we adopt here do not preclude state commissions from concurrently monitoring utilization using semi-annually reported data.

b. Calculating Utilization Levels

107. We sought comment on how utilization levels should be calculated. n207 We proposed that a carrier's utilization level [**113] in a given geographic area (NPA or rate center) be calculated by dividing the quantity of "telephone numbers unavailable for assignment" n208 (the numerator) by the total quantity of telephone numbers in all NXXs assigned to the carrier within the appropriate geographic area (the denominator), and multiplying the result by 100. n209 We expressed concern, however, that certain number status categories, including reserved numbers, numbers allocated to resellers, and numbers in dealer numbering pools, may be used by carriers to stockpile numbers. n210 That is, carriers may assign NXX codes or portions thereof to these categories, and then count these NXX codes or numbers as being utilized, even when they are not being used to provide any type of service. We noted that the incentive to assign numbers to these categories for such strategic purposes may increase if we move to a number allocation regime based on utilization thresholds. n211 Accordingly, we sought comment on whether these categories of numbers should be excluded from the "numerator," or whether there are other ways to prevent the types of abuses about which we expressed concern. n212

n207 *Notice, 14 FCC Rcd at 10350.* [**114]

n208 *Id.* n209 *Id.* The denominator must include all NXX codes assigned, regardless of whether the NXX codes have been activated in the Local Exchange Routing Guide (LERG). n210 *Id.* n211 *Id.* n212 *Id.*

108. We recognized that in most cases, newly acquired and activated NXX codes would have lower utilization levels than older, more "mature" NXXs. n213 Accordingly, we sought comment on whether applicants should have the option of excluding from their utilization level calculation all NXXs obtained in the period immediately preceding the carrier's request for additional numbering resources (*i.e.*, all "newly acquired" NXXs). n214 We also sought comment [*7619] on whether "newly acquired" NXXs should be defined as those assigned to the applicant by the NANPA during the 90 days prior to the new application, or whether 120 days is a more appropriate period for exclusion. n215 We proposed that carriers wishing to take advantage of such exclusion must exclude the newly acquired NXXs from both the numerator and the denominator of their utilization level calculation. n216 Thus, to the extent that a carrier had begun to assign numbers from [**115] a newly acquired NXX, the numbers assigned may not be included in the numerator, if the entire NXX were not included in the denominator of the equation. We further sought comment on whether the exclusion of newly acquired NXXs from the utilization level calculation will accommodate wireless carriers' seasonal fluctuations in demand. n217

n213 *Id.* n214 *Id. at 10351.* CTIA proposes that utilization thresholds be calculated by looking at data from "mature" NXX codes, which it defines as NXX codes that have been assigned to, and are available for use by, a

carrier for at least 90 days. *See* CTIA Jan. 28, 1999 Numbering Proposal. *See also* Cellular Telecommunications Industry Association's Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability, *Memorandum Opinion and Order, 14 FCC Rcd 3092, 3115-16 (1999) (CMRS LNP Forbearance Order).* n215 *Notice, 14 FCC Rcd at 10351. See also CMRS LNP Forbearance Order, 14 FCC Rcd at 3115-16.*n216 *Notice, 14 FCC Rcd at 10351.* [**116]

n217 *Id.*

109. We note that we have eliminated the category *telephone numbers unavailable for assignment* which we had proposed to adopt in the *Notice*, because we conclude that its use would result in the double counting of certain numbers. n218 Our definition of *assigned numbers* reflects those numbers that are in use, or will be in use in the short-term, in the PSTN for a specific customer. n219 This category of number use provides a more accurate representation of numbers used to serve customers, which ultimately furthers our number optimization goals. Other number use categories may become unreasonably inflated and we therefore exclude them from the utilization level calculation. Thus, the utilization level in a given geographic area (NPA or rate center) should be calculated by dividing all *assigned numbers* (numerator) by total numbering resources assigned to that carrier in the appropriate geographic region (denominator), and multiplying the result by 100.

n218 *See supra* P14.n219 *See supra* PP16-17.

110. We believe that the establishment of a uniform utilization level calculation will allow us, the NANPA, and state commissions to more [**117] accurately review and analyze utilization data. Additionally, it will minimize the likelihood that a carrier will retain unneeded numbering resources. n220

n220 *See, e.g.*, Nextel comments at 12.

111. We define "newly acquired numbers" as those that have been activated within the LERG, and thus are available for assignment, within the preceding 90 days of reporting utilization. Because we are aware that carriers cannot be reasonably expected to achieve significant utilization levels immediately in newly acquired numbering resources, we conclude [*7620] that newly acquired numbering resources can be excluded from the calculation. Further, excluding newly acquired numbering resources allows carriers to maintain adequate inventories in preparation for specific promotional offerings and accommodates wireless carriers' seasonal fluctuations in demand. n221

n221 AT&T comments at 18.

c. Utilization Threshold

112. We sought comment generally on whether a percentage utilization threshold should be adopted for carriers requesting additional numbering resources, and if so, on the appropriate level for that threshold. n222 We further sought comment on whether we should set [**118] a uniform nationwide utilization threshold or, in the alternative, establish a range within which state commissions may set the utilization threshold. n223 In addition, we sought comment on whether utilization thresholds, if adopted, should be increased gradually over time, in order to provide carriers time to adjust to the new requirements, and to improve their utilization performance over time. n224 We further sought comment on whether the utilization threshold should apply nationwide, or only in areas that are experiencing difficulties with number exhaust, *e.g.*, the largest 100 MSAs and in area codes where a jeopardy condition has been declared. n225 Alternatively, we sought comment on whether the smaller MSAs should have a lower utilization threshold than the largest 100 MSAs. n226

n222 *Notice, 14 FCC Rcd at 10349.*n223 *Id. at 10350.*n224 *Id.*n225 *Id.*n226 *Id.*

113. ALTS recommends that industry utilization rates be monitored over time before determining whether utilization requirements are necessary. n227 It suggests that if the Commission subsequently determines that utilization [**119] thresholds are necessary that they apply only to growth numbering resources and be calculated based on all of a carrier's numbering resources in the rate center. Bell Atlantic recommends establishing utilization thresholds as a substitute for requiring wireless carriers to participate in pooling. n228

n227 ALTS comments at 12.n228 Bell Atlantic comments at 8.

114. Regarding the level at which a utilization threshold should be set if adopted, CTIA recommends that a 60% utilization threshold be adopted in jeopardy NPAs, increased annually by 5% to a maximum of 70%. n229 It suggests that the same utilization threshold should [*7621] apply to all carriers. n230 Nextel agrees and further suggests that there should be a higher fill rate for major markets and jeopardy areas than for non-jeopardy areas. n231 Time Warner supports establishing a minimum utilization threshold but suggests that the NANC set the initial rate, which could then be adjusted upward as increased efficiencies are obtained. n232 Some commenters suggest that the level of carriers' need for numbering resources may vary widely from one state to another and by rate centers; and, consequently suggest that [**120] we adopt an acceptable range and allow state commissions to set target utilization thresholds within that range. n233

n229 CTIA comments at 10.n230 CTIA comments at 11.n231 Nextel comments at 10-11.n232 Time Warner comments at 16-17.n233 New York Commission at 7.

115. We are convinced that requiring carriers not participating in pooling to meet a utilization threshold before they receive a growth code is an equitable way to make sure that carrier requests are needs-based. We therefore adopt a nationwide utilization threshold for non-pooling carriers beginning January 1, 2001. We are less certain, however, at what level the threshold should be set. Parties that commented on a specific utilization rate all suggested thresholds within 60-90% range. n234 We believe, however, that most of the suggested utilization thresholds included in the numerator were based on additional categories besides *assigned numbers*. Additionally, state commissions are in the process of conducting or completing utilization studies for specific NPAs and we hope to examine the results of those studies and learn what actual utilization levels carriers are now achieving. In the [**121] attached *Further Notice*, we seek additional comment on what specific utilization threshold should be required.

n234 CTIA comments at 10; Virginia Commission comments at 4.

IV. NUMBER CONSERVATION THROUGH THOUSANDS-BLOCK NUMBER POOLING

A. Requirements for LNP-Capable Carriers: Mandatory Thousands-Block Number Pooling

1. Telephone Number Pooling

a. Background

116. In the *Notice*, we identified as one of the major drivers of exhaust the distribution of numbers in blocks of 10,000. n235 Telephone number pooling addresses this problem by allowing service providers in a given area to receive numbers in blocks smaller than 10,000. n236 [*7622] Carriers participating in pooling thereby are able effectively to share numbering resources from a single NXX code. As part of our inquiry, we considered (1) thousands-block number pooling; (2) individual telephone number (ITN) pooling; (3) and unassigned number porting (UNP) as possible number pooling strategies for implementation on a nationwide basis. n237

n235 *Notice, 14 FCC Rcd at 10381.*n236 Historically, network routing mechanisms are based upon the understanding that geographic numbers are assigned on an NXX code basis and associated with a specific switch, and, correspondingly, that the network address to which the call is routed is embedded in the first six digits (NPA-NXX) of the called number. Number pooling breaks the association between the NPA-NXX and the service provider to whom the call is routed by the Location Routing Infrastructure. [**122]

n237 *Notice, 14 FCC Rcd at 10381-91.* Thousands-block number pooling enables carriers to receive numbering resources in blocks of 1,000. ITN enables carriers to receive telephone numbers one at a time. UNP, although not technically a pooling method because carriers receive numbering resources from each other, rather than from a common pool overseen by a pooling administrator, is similar to ITN in that individual numbers are ported using the same network infrastructure (LNP) to route calls.

117. All three pooling strategies utilize the LRN architecture that supports LNP. n238 The LRN database structure is used to route calls to customers who have been assigned telephone numbers from a pool because, as with a ported

number, the NPA-NXX of a pooled number no longer necessarily identifies the switch or service provider associated with the service. Thus, number pooling can be implemented only where LRN LNP has been deployed. Also, because of the current wireline call rating mechanisms associating an NXX with a rate center, the proposed pooling methodologies would be based on the rate center structure in place in a given NPA. n239 Therefore, each rate [**123] center would contain a separate pool of numbering resources. n240

n238 The LRN is a unique ten-digit number assigned to each central office switch to identify each switch in the network for call routing purposes. *See* ATIS TISI.6 Working Group Technical Requirements No.4 for Thousands-Block Pooling Using Number Portability (TISI.6 Thousands-Block Number Pooling Technical Requirements). The TISI.6 Working Group was created to develop standards and requirements for number portability with the support of ATIS. *See* Accredited Standards Committee-TI Telecommunications Procedures Manual at 21. Committeee-TI documents are available at <http://www.atis.org>.

When an individual telephone number is ported, a record associating the ported number with the LRN of the appropriate service provider's switch is created and stored in the former carrier's LNP service control point (SCP) database, via downloads from the local Service Management System (SMS). Local SMSs (LSMSs) are the databases that carriers will regularly access to obtain information on ported telephone numbers. The Number Portability Administration Center (NPAC) SMSs are the regional databases maintained by the local number portability administrators, which contain the lists of ported telephone numbers and associated LRNs. These lists of ported numbers and LRNs are periodically transmitted from the NPAC SMSs to the LSMSs, and then downloaded to network SCPs for call processing. Telephone Number Portability, *Second Report and Order, CC Docket No. 95-116, 12 FCC Rcd 12281, 12288 (1997) (Telephone Number Portability Second Report and Order)*. Any service provider routing a call to the ported number would do so by querying the database to determine the LRN that corresponds to the dialed telephone number, and routing the call to the switch identified by that LRN. *See generally Id. at 12287. See also Notice, 14 FCC Rcd at 10381-83.* The LRN method was initially recommended by the industry and state/regional workshops, and adopted by the Commission in *Telephone Number Portability Second Report and Order, 12 FCC Rcd at 12283.* [**124]

n239 Pooling, however, could be extended beyond the rate center if methods to eliminate the link between call rating and NXX codes using the SS7 network were implemented.n240 The concept of pooling within the rate center was introduced by the INC at the June 10, 1997 NANC meeting. The NANC supported this paradigm. *See also* NANC Number Resource Optimization Report, October 21, 1998.

[*7623] **2. Thousands-Block Number Pooling**

a. Background

118. Thousands-block number pooling involves breaking up the 10,000 numbers in an NXX into ten sequential blocks of 1,000 numbers each, and allocating each thousands-block to a different service provider, and possibly a different switch, within the same rate center. All 10,000 numbers available in the NXX code are allocated within one rate center, but can be allocated to multiple service providers in thousand number blocks, instead of only to one particular service provider. n241 A Pooling Administrator, an independent third-party entity, coordinates the allocation of numbers to a particular service provider with the Number Portability Administration Center (NPAC) SMSs. n242 In the *Notice*, we tentatively concluded that, [**125] given the potential benefits of nationwide pooling in making more efficient use of NXX codes, implementing thousands-block number pooling in major markets is an important numbering resource optimization strategy that is essential to extending the life of the NANP. n243 We sought comment on how thousands-block number pooling should be implemented. n244 We also sought comment on how best to achieve our goal of facilitating carrier participation in areas where the benefits of pooling outweigh the associated costs. n245

n241 For example, if the 202-418 NPA/NXX were pooled, up to ten service providers could serve customers from it. One service provider could be allocated every line number from 202-418-0000 through 202-418-0999. Another service provider could be allocated every line number in the range 202-418-1000 through 202-418-1999.n242 The NPAC SMSs are regional databases that contain all necessary routing information on ported telephone numbers and facilitate the updating of the routing databases of all subtending service providers in the portability area. As noted above, to facilitate proper network routing in a thousands-block number pooling

environment, every service provider's existing LNP SCP database within the pooling area would store specific LRN routing information for thousand number blocks within the same NXX. In addition, each service provider's LNP mechanism would query its database for calls to pooled numbers allocated to other service providers. [**126]

n243 *Notice, 14 FCC Rcd at 10384.*n244 *Id.*n245 *Id.*

119. In the *Notice*, we also considered whether there were incentive-based mechanisms that could be used to address the numbering crisis without a regulatory mandate. n246 In particular, we discussed the possibility of adopting a "carrier choice" alternative based on a carrier's achieving a mandatory utilization threshold as a substitute for mandatory participation in technical optimization solutions such as thousands-block pooling. n247 This strategy contemplates establishing thresholds for efficient use of numbering resources and leaving the choice of method for achieving those thresholds to individual carriers.

n246 *Id. at 10413.*n247 *Id. at 10413-14.*

[*7624] 120. Subsequent to the release of the *Notice*, the Commission delegated interim authority to implement thousands-block number pooling to particular state commissions that had requested such authority because we recognized that thousands-block number pooling may extend the lives of certain jeopardy NPAs in those states. n248 By granting [**127] such authority to these state commissions, however, we did not intend to permit state commissions to engage in thousands-block number pooling to the exclusion of, or as a substitute for, unavoidable and timely area code relief. n249 We also recognized the potential for confusion and unnecessary burdens on carriers from the impact of disparate standards in the implementation of thousands-block number pooling and, thus, our grants of such authority were subject to the caveat that these interim delegations would be superseded by a nationwide number conservation strategy.

n248 *See California Delegation Order, 14 FCC Rcd at 17490-96; Connecticut Delegation Order* at PP12-24; *Florida Delegation Order, 14 FCC Rcd at 17510-16; Maine Delegation Order, 14 FCC Rcd at 16451-57; Massachusetts Delegation Order, 14 FCC Rcd at 17451-57; New Hampshire Delegation Order* at PP24-34; *New York Delegation Order, 14 FCC Rcd at 17470-76; Ohio Delegation Order* at PP27-39; *Texas Delegation Order* at PP11-23; *Wisconsin Delegation Order* at PP32-44. [**128]

n249 *See Pennsylvania Numbering Order, 13 FCC Rcd at 19027.* The Commission stated that these grants of interim authority are limited delegations of authority that do not abrogate the state commissions' obligations to follow the area code implementation guidelines established in the *Local Competition Second Report and Order.*

b. Discussion

121. We agree with commenting parties that a carrier choice approach would reduce the potential effectiveness of certain optimization strategies, particularly thousands-block number pooling, because fewer carriers would participate. n250 Thus, carriers with high utilization rates would continue to draw additional numbering resources in blocks of 10,000, which would likely perpetuate the phenomenon of stranded, unassignable numbers in the NXX blocks controlled by these non-pooling carriers. n251 We also agree with Bell Atlantic that numbering optimization measures, such as thousands-block pooling, provide the greatest benefits when participation is maximized, and allowing carriers to opt out would significantly limit their benefit. n252 We also note that a carrier choice approach would be very difficult [**129] to administer, difficult to enforce, and would unnecessarily complicate cost recovery mechanisms. n253 For instance, requiring some carriers to pool, while excluding others, would require the former to pay more for the use of [*7625] numbering resources than the latter. n254 Furthermore, we believe that the industry and consumers are best served by national number resource optimization standards implemented consistently and in a competitively neutral manner across the nation. We decline, therefore, to adopt the carrier choice approach discussed in the *Notice* and advocated by some parties. n255 We have, however, sought to incorporate, to the extent possible, the incentive-based rationale within the carrier choice proposal.

n250 *See* ALTS comments at 26; GTE comments at 67 (stating that the carrier choice approach would create great difficulties for enforcement and audits); New York Commission comments at 19-20 (stating that inconsistent application of number optimization measures would exacerbate numbering shortage); USTA

comments at 12 (stating that allowing carriers to choose among many number optimization measures will likely reduce the effectiveness of the measures because fewer carriers would be required to implement the number optimization methods). [**130]

n251 Several states strongly disagree with the carrier choice approach, asserting it will be impossible for carriers to reach high utilization rates without mandatory thousands-block number pooling. *See* Letter from Trina M. Bragdon to Magalie Roman Salas, FCC dated January 31, 2000. n252 *See* MCI WorldCom comments at 31.n253 *See* Maine Commission comments at 25-27.n254 *See* AT&T comments at 58-60.n255 GTE comments at 43; Liberty comments at 70; SBC comments at 70.

122. Pursuant to our authority under section 251(e) of the 1996 Act, n256 we adopt thousands-block number pooling as a mandatory nationwide numbering resource optimization strategy. Although we set forth the national pooling framework in this *Report and Order*, we will roll out thousands-block number pooling at the national level after we select a national pooling administrator. n257 Consistent with our tentative conclusion in the *Notice*, we find that the implementation of thousands-block number pooling in major markets is essential to extending the life of the NANP by making the use of NXX codes more efficient. n258 We note that a wide array of commenting parties also [**131] agree with our tentative conclusion and support the adoption of a national thousands-block number pooling plan. n259 As we stated earlier, the allocation of numbering resources in blocks of 10,000, without regard to the quantity of numbers a carrier needs in a given rate center at a given moment, is a significant driver of premature number exhaust. n260 Because many new entrants in a market do not have the customer base to be able to utilize 10,000 numbers in an NXX, the unused numbers become stranded. We therefore concur with Qwest that thousands-block number pooling will reduce the incidence of stranded numbers by allowing carriers to submit numbering requests that more closely approximate their immediate numbering needs. n261 Thus, thousands-block number pooling is a valuable mechanism to remedy the inefficient allocation and use of our numbering resources. n262

n256 *47 U.S.C. § 251*(e).n257 *See infra* discussion at PP156-66.n258 *Notice, 14 FCC Rcd at 10384*.n259 *See, e.g.* ALTS comments at 23; Ameritech comments at 40; AT&T comments at 39; Bell Atlantic comments at 23; Cablevision Lightpath (Cablevision) comments at 5; California Commission comments at 26; Connecticut Commission comments at 6; Maine Commission comments at 19; MediaOne comments at 21; Nextel comments at 17; Nextlink comments at 9-10; New York Commission comments at 10; Sprint comments at 16; USTA reply comments at 18. [**132]

n260 Cablevision comments at 5; Qwest comments at 3.n261 Qwest comments at 3; Nextel comments at 17; Time Warner comments at 6.n262 ALTS comments at 23; Cablevision comments at 6; California Commission comments at 27; Connecticut Commission comments at 6; Cox comments at 15; Maine Commission comments at 21; Nextlink comments at 9; New Hampshire Commission comments at 16; Sprint comments at 16.

[*7626] 123. Furthermore, unlike WinStar, n263 we are persuaded from our observation of the ongoing mandatory state-sponsored pooling trial in the 847 NPA in Illinois that thousands-block number pooling can extend the life of an NPA in a manner in which the benefits exceed the carrier-specific costs which carriers must incur to enable them to receive pooled numbers. In particular, we observe that, after thousands-block pooling was implemented in June 1999, the projected life of the 847 NPA was extended by two years. n264 We believe that the benefits to carriers, businesses and consumers of the cost savings resulting from the ability to meet numbering needs without the implementation of area code relief for at least two years justified the cost of implementing pooling [**133] in the 847 NPA. As we stated earlier, though difficult to quantify in an exact manner, the tangible and intangible costs of frequent area codes changes to businesses and consumers are significant. n265 We nevertheless re-emphasize that the adoption of a national thousands-block number pooling framework is not a substitute for timely area code relief once additional numbering resources are needed, though we believe it can substantially extend the time before such relief is necessary. n266

n263 WinStar comments at 20 (maintaining that the data from the Illinois and New York trials suggest a less than compelling case for pooling).

n264 *See* Ganek, *Leveraging LNP*, Telephony, February 7, 2000.

n265 *See Where Have All the Numbers Gone? Long-Term Area Code Relief Policies and the Need For Short-Term Reform*, Economics and Technology, Inc., March 1998, at 19-24 (*Where Have All the Numbers Gone?*).

n266 *See* Cox comments at 15; SBC comments at 83.

124. We disagree with parties who maintain that it is inappropriate and unjustifiable for the Commission to mandate nationwide thousands-block number pooling at this time. n267 The widespread incidence of area code [**134] exhaust has placed a tremendous burden on consumers and has caused the NANP to come perilously close to exhaust; eventually, exhaust will necessitate expansion of the NANP at significant cost. Our efforts here seek to ensure fair and impartial access by all telecommunications carriers to numbering resources, given the impact of the rapid depletion of these numbering resources. n268 We are confident that our actions in this proceeding will temper the need for future area code relief by facilitating more efficient use of our numbering resources. In addition, because competition in telecommunications markets is dependent, in part, upon fair and impartial access by all telecommunications carriers to national numbering resources, we view our efforts with regard to numbering resource optimization as an integral part of the Commission's overall efforts to implement the pro-competitive goals of the 1996 Act. We also believe that, as part of our plenary jurisdiction over numbering issues, we are obligated to alleviate the burdens placed on consumers by the inefficient use of numbering resources. n269

n267 Burrows comments at 6; CinBell comments at 10; Level 3 comments at 13; Omnipoint comments at 22; VoiceStream comments at 25. [**135]

n268 Connecticut Commission comments at 6; MediaOne comments at 21.

n269 ALTS comments at 3; Bell Atlantic comments at 25; Qwest comments at 5.

[*7627] 125. We also find it necessary to make participation in a national thousands-block number pooling framework mandatory for all carriers that are currently required to be LNP-capable, either because they provide service in one of the largest 100 MSAs, or pursuant to a request from another carrier. n270 We are concerned that an optional thousands-block pooling framework based on a carrier's rate of utilization of its numbering resources, as proposed by several commenters, n271 might compromise the potential effectiveness of this numbering resource optimization strategy. n272 Thousands-block number pooling will realize the greatest savings in NXX code usage when the majority of the users of numbering resources receive their numbers in thousands-blocks, instead of blocks of 10,000. n273 Additional benefits of thousands-block number pooling will be in the form of fewer stranded numbers, greater competition from more carriers being able to receive numbers, and less incentive to hoard. Our decision to require mandatory pooling [**136] at a national level once we select a pooling administrator is supported by the experience of the voluntary thousands-block pooling trials in the 212 and 718 NPAs in New York, which have not achieved much benefit because few carriers chose to participate. n274

n270 *Notice, 14 FCC Rcd at 10385. See also* ALTS comments at 23; Nextel comments at 19; Small Business Alliance comments at 9. The Commission required wireline carriers in the largest 100 MSAs to implement LNP as of December 31, 1998, in switches that another carrier has requested be made LNP capable. 47 C.F.R. § 52.23(b)(1). As of January 1, 1999, LECs may request LNP in other LECs' individual switches in areas outside of the largest 100 MSAs, to be provided no later than six months after receiving the request. CMRS carriers are not required to deploy LNP until November 24, 2002. *See CMRS LNP Forbearance Order, 14 FCC Rcd at 3093.* We do not, in this *Report and Order*, change the circumstances under which carriers are required under our rules to acquire LNP capability.

n271 GTE comments at 43; SBC comments at 68, 70; Liberty comments at 5.

n272 *See* Bell Atlantic comments at 37; New York Commission comments at 19-20; USTA comments at 12. [**137]

n273 Connecticut Commission comments at 6.

n274 The trial in the 212 NPA began on July 1, 1998, and the 718 NPA trial began on March 1, 1999. There are 26 potential pooling participants in the 212 NPA and 24 potential participants in the 718 NPA. The NANPA informs us that, to date, in the 212 NPA, five providers donated thousands-blocks to the pool and six providers received thousands-blocks from the pool. Pooling thus far has resulted in the saving of only 8 NXXs. Although the 718 NPA trial has had four participants donate to the pool, no carrier has received thousands-blocks from that NPA and thus no NXXs have been saved. At this point, the 212 NPA is exhausted of CO codes and the 718 NPA has only 7 CO codes remaining. *See* 212/718 Voluntary Telephone Number Pooling, NeuStar, dated February 22, 2000.

126. We also reject the assertion that the adoption of a mandatory thousands-block number pooling framework is premature because substantial technical issues remain unresolved. n275 Indeed, we find that the majority of the technical issues concerning thousands-block number pooling have been resolved in industry fora, and the industry's agreement on technical standards for [**138] this strategy is reflected in the promulgation of the T1S1.6 Working Group's Technical Requirements for Thousands-Block Number Pooling Using Number Portability and the Thousand Block Pooling Guidelines. Also, NeuStar, the current local number portability administrator (LNPA), plans to activate the NPAC Release 3.0 software in July, 2000, [*7628] which is expected to significantly extend carriers' system capacity for pooling. n276 We also note that the pooling trials that are currently underway have not experienced any significant technical difficulties. n277 We recognize, however, that in the early stages of national pooling implementation, some additional technical issues may have to be resolved either within the pooling administrator's pooling platform or carrier interfaces. n278

n275 RCN comments at 13.

n276 When a number is ported, carriers must utilize software in the NPAC system to download and store the telephone number and associated LRN. Both NPAC Release 1.4 and NPAC Release 3.0 are customized to perform pooling. The ongoing state pooling trials, for which NeuStar serves as the Pooling Administrator, are currently using the NPAC Release 1.4 software.

n277 The Illinois Commission began a mandatory thousands-block pooling trial in the 847 NPA in June 1998. *See* Illinois Number Pooling Trial Within NPA 847 Interim Report (Apr. 26, 1999) (estimating a savings of 137 NXX codes as a result of pooling). This document is available at <http://www.numberpool.com/POOL/pac.htm>. The New York Commission began voluntary thousands-block pooling trials in the 212 NPA in July 1998, and in the 718 NPA on Jan. 1, 1999. *See* New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, filed Feb. 19, 1999, at 7. [**139]

n278 Ameritech comments at 40.

127. We conclude that delaying implementation of thousands-block number pooling until all carriers are required to be LNP-capable, as suggested by some commenters, n279 would needlessly prolong the inefficiencies resulting from the current number allocation system. Because the majority of wireline carriers in the major markets currently possess LNP capability, we believe that pooling will appreciably extend the lives of some NPAs already in jeopardy as well as all new NPAs going forward. LNP capability is already mandated in the areas where number usage is likely to be the highest; *i.e.*, in the largest 100 MSAs. We also note that there are 170 NPAs in the largest 100 MSAs and these particular NPAs constitute approximately 54% of the total number of NPAs nationwide. n280 Moreover, we find that 28 percent of the NPAs in the largest 100 MSAs are in jeopardy, while about 24 percent of the area codes outside the largest 100 MSAs are in jeopardy. n281 Thus, the benefits of pooling can potentially affect a large number of areas and consumers.

n279 Level 3 comments at 13; RCN comments at 13; Omnipoint comments at 6.

n280 This information was based on data from the following Internet cites: <http://www.nanpa.com>; <http://www.lincmad.com>; <http://www.census.gov>. [**140]

n281 *Id.*

128. We conclude that national thousands-block number pooling should be administered by a single national pooling administrator because we seek to ensure consistency and uniformity in pooling administration in a cost-effective manner. We find it necessary, however, to delay the implementation of thousands-block number pooling on a nationwide basis until a national pooling administrator is selected. To mitigate the impact on the NANP of this delay in our ability to commence national pooling, we will continue to permit states to implement individual pooling trials through individual requests for additional delegation of authority. We, however, decline to further delay the commencement of nationwide pooling until [*7629] after states have implemented other conservation measures such as rate center consolidation, tendigit dialing, audits, and reclamation of unused NXX codes, as suggested by some parties. n282 Although we continue to believe that the implementation of these other measures also will assist in further optimizing our numbering resources, we conclude that the implementation of thousands-block number pooling need not be linked to the implementation of other [**141] number conservation measures, given the urgency of the numbering crisis facing the nation and the uncertain time-frames in which these other measures may be implemented. n283

n282 *See* AirTouch comments at 10; Liberty comments at 3; Omnipoint comments at 6; CinBell comments at 10; PrimeCo comments at 7; Sprint comments at 21.

n283 Several commenters agree with this conclusion. *See* California Commission comments at 23; Nextlink comments at 8; Massachusetts Commission comments at 4; Wisconsin Commission comments at 8.

B. Requirements for Non-LNP-Capable Carriers

a. Background

129. In the *Notice*, we sought comment on whether the need to promote efficient use of numbering resources requires non-LNP-capable carriers to participate in thousands-block number pooling, the relative costs and benefits of extending thousands-block number pooling requirements to such carriers, and whether there are viable non-LNP based alternatives to thousands-block number pooling that would promote the efficient use of numbers by non-LNP-capable carriers. n284 We divided non-LNP-capable carriers into three categories: (1) "covered" CMRS carriers n285 in the largest 100 MSAs, which [**142] are not currently LNP-capable, but will be required to implement LNP by a date certain; (2) wireline and "covered" CMRS carriers outside the largest 100 MSAs, which will be required to deploy LNP in the future only if and when they receive a request from a competing carrier; n286 and (3) non-covered CMRS providers, such as paging carriers, which are not subject to LNP requirements of any kind. n287 With respect to "covered" CMRS providers in the largest 100 MSAs, we noted our decision in the *CMRS LNP Forbearance Order* stating that covered CMRS providers would be required to implement LNP [*7630] in the largest 100 MSAs by November 24, 2002. n288 Accordingly, we proposed to subject covered CMRS carriers to any thousands-block number pooling requirement that we may adopt for LNP-capable wireline carriers once those CMRS carriers are LNP-capable and sought comment on that proposal. n289 We also sought comment on whether there is a need to consider an accelerated LNP-deployment schedule, earlier than the current date of November 24, 2002, for CMRS carriers to address specific number exhaust problems by thousands-block number pooling. n290

n284 *Notice, 14 FCC Rcd at 10392.* [**143]

n285 The term "covered CMRS" refers to broadband Personal Communications Service (PCS), cellular, and 800/900 MHz Specialized Mobile Radio (SMR) licensees that (1) hold geographic area licenses or are incumbent SMR wide area licensees, and (2) offer real-time, two-way switched voice service, are interconnected

with the public switched network, and utilize an in-network switching facility that enables such CMRS systems to reuse frequencies and accomplish seamless hand-offs of subscriber calls. 47 C.F.R. § 52.21(c).

n286 As discussed below, the CMRS LNP requirements for the largest 100 MSAs also require covered CMRS carriers outside the largest 100 MSAs to support roaming by CMRS customers from the largest 100 markets that use ported numbers. *See* 47 C.F.R. § 52.31(a)(2). Thus, CMRS carriers outside the largest 100 MSAs will be required to make certain LNP-related changes to their networks to support roaming even if they do not receive a request to provide LNP to customers in their home market. These changes, however, are not as extensive as those that would be required to implement LNP for their own customers, or to participate in number pooling.

n287 *Notice, 14 FCC Rcd at 10392.* [**144]

n288 *CMRS LNP Forbearance Order, 14 FCC Rcd at 3092. See also* Cellular Telecommunications Industry Association's Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations, WT Docket No. 98-229, *Order on Reconsideration*, FCC 00-47 (rel. Feb. 23, 2000). As with wireline carriers, wireless carriers are required to deploy LNP in the top 100 MSAs only within switches for which they receive specific requests for LNP capability. *See* Telephone Number Portability, *First Memorandum Opinion and Order and Order on Reconsideration, 12 FCC Rcd 7236, 7313-14 (1997)* (*Telephone Number Portability First Memorandum Opinion and Order on Reconsideration*).

n289 *Notice, 14 FCC Rcd at 10392-93.*

n290 *Id.*

130. Furthermore, we sought comment on the assertions of CMRS carriers that their participation in thousands-block number pooling would have little impact on number utilization and the assertions of state regulators that the participation of CMRS providers in thousands-block number pooling would enhance the effectiveness of thousands-block number [**145] pooling. n291 We also sought comment on the projections presented by the NANPA concerning the comparative impact on NANP exhaust depending on whether thousands-block number pooling includes CMRS participants. n292 If we were to extend thousands-block number pooling requirements to covered CMRS providers, we sought comment on whether these requirements should be limited to specific NPAs or rate centers or whether they should apply to all NPAs located in the largest 100 MSAs. n293 We also sought comment on the potential cost to covered CMRS providers if they are subject to thousands-block number pooling requirements. n294 We further sought comment on the timeframe that would be required for implementation of thousands-block number pooling by covered CMRS providers following LNP deployment and on the ability of covered CMRS carriers to participate in decisions regarding thousands-block number pooling administration prior to their development of LNP capability. Moreover, we asked commenters to address whether there are any other technical considerations and administrative issues unique to covered CMRS carriers that could affect the timing of their participation in thousands-block number [**146] pooling. n295

n291 *Id. at 10393-94.*

n292 *Id. at 10394.*

n293 *Id. at 10395.*

n294 *Id.*

n295 *Id.*

[*7631] 131. Because it is not certain to what degree the second category of non-LNP-capable carriers, wireline and covered CMRS carriers outside the top 100 MSAs, will be subject to requests to provide LNP in their own markets, n296 or when such deployment will occur, we sought comment on the manner in which carriers in this category should be required to participate in any thousands-block number pooling regime we may establish for wireline and CMRS carriers in the largest 100 markets. n297 Specifically, we sought comment on whether a carrier in this category that establishes LNP capability based on another carrier's request presumptively should be required to participate in

thousands-block number pooling and whether there might be circumstances under which we should impose thousands-block number pooling obligations on carriers even if they have not received a request for LNP from another carrier. We further sought comment on whether implementing the network changes required [**147] to support roaming would affect the cost to CMRS carriers of implementing thousands-block number pooling, even if such carriers do not receive a request from a competing carrier to deploy LNP in their home markets. n298

n296 Covered CMRS carriers outside the largest 100 MSAs will be required to deploy LNP at some time in the future only if and when they receive a request from a competing carrier. Under the timetable established by the *CMRS LNP Forbearance Order*, such deployment would not occur before May 22, 2003. *See generally, CMRS LNP Forbearance Order, 14 FCC Rcd at 3092; see also* 47 C.F.R. § 52.31(a)(iv).

n297 *Notice, 14 FCC Rcd at 10396.*

n298 *Id. at 10396-97.*

132. We sought comment on whether the need for numbering resource optimization warrants the participation in thousands-block number pooling by wireless carriers that are not included in the definition of covered CMRS providers. n299 We recognized that extending thousands-block number pooling requirements to these carriers would impose significant costs and burdens that we concluded in the *Telephone Number Portability* [**148] proceeding are not warranted for LNP purposes. n300 Therefore, we stated our belief that such requirements should not be extended to non-LNP-capable carriers without a substantial showing that their participation in thousands-block number pooling would have significant numbering optimization benefits, otherwise unrealizable, that outweigh those costs. n301

n299 *Id.*

n300 In the *Telephone Number Portability* proceeding, we concluded that these services should not be subject to LNP requirements because LNP implementation by these classes of carriers would have little impact on wireless-wireless or wireless-wireline competition. *See* Telephone Number Portability, *First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8433-38 (1996) (Telephone Number Portability First Report and Order); see also Telephone Number Portability First Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd at 7236;* Telephone Number Portability, *Second Memorandum Opinion and Order on Reconsideration, 13 FCC Rcd 21204, 21228-31 (1998) (Telephone Number Portability Second Memorandum Opinion and Order).* [**149]

n301 *Notice, 14 FCC Rcd at 10397-98.*

[*7632] 133. We sought comment on the feasibility of alternative numbering resource optimization methods, such as Direct Inward Dialing (DID) agreements, n302 NXX code sharing arrangements, n303 and the Colorado Rural LEC Proposal n304 that would enable non-LNP-capable carriers to participate in or approximate the effect of thousands-block number pooling without requiring them to develop LNP capability. Because there may be non-LNP-capable carriers in a market that are unable to use an "alternative" pooling method not based on LNP, we sought establishment of a number allocation method that does not discriminate unduly in favor of either thousands-block number pooling participants or thousands-block number pooling non-participants. n305 In particular, we sought comment on how requests for numbering resources should be sequenced by the thousands-block number Pooling Administrator to avoid undue discrimination in favor of either thousands-block number pooling participants or thousands-block number pooling non-participants. n306

n302 *Id. at 10398-99.* Under DID agreements, ILECs set aside blocks of numbers for paging carriers and route calls to the numbers to them through PBX or Centrex trunks. [**150]

n303 *Id.* NXX code sharing arrangements are similar to DID agreements, except that they do not involve the use of PBX or Centrex trunks.

n304 *Id.* Under the Colorado Rural LEC Proposal, a small LEC could have, for example, only 400 telephone numbers assigned within the 0000-0999 block of an NPA-NXX, but it would have all 10,000 numbers associated with the NXX allocated to it. Since the numbers 1000-9999 associated with NXX would not be assigned, these numbers could be released to the pool administrator for allocation elsewhere in the rate center. The small LEC's switch could be programmed to handle calls from its own subscribers to telephone numbers in the 0000-0999 block that it retains, including vacant number treatment. The switch could also be programmed to direct calls initiated by the small LEC's own subscribers to telephone numbers in the 1000-9999 number block (which contains nine thousand numbers) to an LNP-capable switch, either to obtain the routing information so it could route the call itself, or to have the LNP-capable switch route the call. Calls coming to the LNP-capable switch to numbers that are within the 0000-0999 number block would be sent to the small LEC's switch. Calls to numbers in the 1000-9999 number block would be routed using a query to the LNP database to determine the appropriate LRN. [**151]

n305 *Notice, 14 FCC Rcd at 10399.*

n306 *Id.*

b. Discussion

134. We adopt the tentative conclusion in the *Notice* that, once covered CMRS carriers are LNP-capable, they should be equally subject to any thousands-block number pooling requirements that we adopt for LNP-capable wireline carriers. n307 This means that covered CMRS providers will be required to implement thousands-block number pooling after the forbearance from the LNP requirements expires on November 24, 2002, that other CMRS providers will not be required to implement thousands-block number pooling, and that all restrictions on the implementation of number pooling applicable to LNP-capable carriers) are equally applicable to covered CMRS providers. n308 We direct CMRS providers to participate in creating the thousands-block [*7633] pooling architecture so as to be ready to implement pooling as soon as they become LNP-capable, n309 and, in the meantime, to further explore non-LNP alternatives to number conservation. Along these lines, as an alternative approach to number optimization, non-LNP-capable carriers will be subject to utilization thresholds to obtain growth [**152] codes. When a non-LNP-capable carrier becomes LNP-capable, whether voluntarily or pursuant to the Commission's rules, that carrier will be required to participate in thousands-block number pooling in all pooling areas, and as such will no longer be subject to meeting the utilization threshold for growth codes in those pooling areas.

n307 *Id. at 10393.*

n308 Thus, for example, covered CMRS providers must implement thousands-block number pooling only in switches for which they have received a request for number portability from another carrier.

n309 *See, e.g.*, Maine Commission comments at 22; New Hampshire Commission comments at 15.

135. We further find that, as pooling is implemented, non-LNP-capable carriers must continue to be able to obtain the numbering resources they need, despite their inability to participate in thousands-block number pooling. Thus, we require the NANPA to ensure the continued existence of concurrent number allocation mechanisms available to non-LNP-capable carriers and to ensure that numbers are administered in a manner that does not discriminate on the basis of a carrier's LNP-capability status. We also ask further [**153] comment in the *Further Notice* on whether covered CMRS carriers should be required to participate in pooling immediately upon expiration of the LNP forbearance period on November 24, 2002, or whether a transition period beyond that date to implement pooling will be necessary and, if so, what the length of that transition period should be.

1. Impracticability of Thousands-Block Number Pooling for Non-LNP-Capable Carriers

136. In the *CMRS LNP Forbearance Order*, we granted CMRS providers until November 24, 2002, to implement LNP capability because (1) we determined that the industry needed time to develop and deploy the technology that will

allow viable implementation of number portability, including the ability to support seamless nationwide roaming, n310 and (2) we determined that extending the deadline is consistent with the public interest for competitive reasons because it would give CMRS carriers greater flexibility to complete network buildout, technical upgrades and other improvements which will enhance service and promote competition. n311 We have not been provided with any information on the record in this proceeding that would lead us to conclude that wireless [**154] (or wireline) service providers can implement [*7634] thousands-block number pooling prior to acquiring LNP capability, as it is number portability that allows a thousand-number block to be assigned to a carrier from an NXX that has been assigned to another carrier, thus permitting the contribution and distribution of thousand number blocks. n312 Thus, we agree with various CMRS providers that we should not require service providers to participate in thousands-block number pooling prior to these carriers obtaining LNP capability. n313

n310 Nationwide roaming is a requirement for CMRS LNP-capability. *See Telephone Number Portability First Report and Order, 11 FCC Rcd at 8440.* For CMRS carriers to implement LNP that also supports nationwide roaming, the industry has chosen a method that requires separation of the Mobile Identification Number (MIN), which is used to identify the mobile unit to the carrier's network, from the Mobile Directory Number (MDN), the number that is dialed to reach the mobile unit. Separation of the MIN and MDN, which are associated with a particular carrier and are currently the same for each subscriber of AMPS, CDMA, and TDMA-based carriers, will require significant reprogramming of roaming software and databases. While standards for this separation have been adopted, industry has not yet reached consensus on standards for integration of wireless and wireline LNP. For wireless LNP that also supports nationwide roaming to function properly, all CMRS carriers must separate the MIN and MDN, and at least support the querying capability required for LNP. [**155]

n311 *CMRS LNP Forbearance Order, 14 FCC Rcd at 3104-05.*

n312 There are other arrangements, such as Type 1 interconnection arrangements, that may enable wireless service providers to achieve some of the benefits of number pooling, such as obtaining and using numbers in smaller increments, prior to implementing LNP. These types of NXX code sharing arrangements, however, are not true pooling systems. Moreover, the number optimization benefits that may be achieved through Type 1 interconnection arrangements may be quite limited, as generally only one wireless carrier may share any NXX code with the wireline code holder pursuant to such arrangements.

n313 *See, e.g.*, CTIA comments at 29; CTIA reply comments at 21-23; PCIA comments at 23-24; PCIA reply comments at 16-17.

137. Even as we find that carriers need to have implemented LNP prior to being able to participate in thousands-block number pooling, we decline to order covered CMRS service providers to speed up their implementation of LNP solely for the purpose of implementing thousands-block number pooling. There is dispute as to the degree to which CMRS providers' participation in thousands-block [**156] number pooling before November 2002 would extend the life of the NANP. It is clear, however, that such a requirement would necessitate substantial effort and expense. n314 Moreover, requiring CMRS providers to move immediately to thousands-block number pooling may divert them from other important tasks, such as implementing the Commission's requirements concerning CALEA, 911, and LNP itself. n315 Until CMRS service providers obtain LNP capability under the schedule previously imposed by the Commission, we require them instead to participate in alternative forms of number optimization, such as compliance with utilization thresholds, as discussed earlier.

n314 For example, CTIA claims that the life of the NANP is extended, at most, by only one year and eight months if CMRS participation is required before 2003, and criticizes the NANP Exhaust study's claims that inclusion of the CMRS providers in thousands-block number pooling would significantly expand the life of the NANP. On the other hand, Maine relies on both the NANP exhaust study and its own number utilization data to support its contention that CMRS participation in pooling would significantly extend the life of NANP. *See* CTIA comments at 31-34; Maine Commission comments at 21; CTIA reply comments at 21. *See also* GTE comments at 50; VoiceStream comments at 29; Omnipoint comments at 31. [**157]

n315 *See, e.g.*, AT&T comments at 46-47; CTIA comments at 21; GTE comments at 51-52.

138. For the same reasons as we have discussed for delaying the implementation of thousands-block number pooling for CMRS providers, we will not require thousands-block number pooling for non-"covered" CMRS providers, such as paging companies. Since they are not required to implement LNP capability, it would be impractical to require them to implement thousands-block number pooling. Further, we will not require wireline carriers who are not LNP-capable to acquire that capability solely to participate in thousands-block number pooling at the present time.

[*7635] **2. Desirability of Thousands-Block Number Pooling for Covered CMRS Carriers**

139. We find that it is in the public interest to require covered CMRS service providers to participate in thousands-block number pooling once they have acquired LNP capability. We agree with the arguments of various state commissions and carriers that, intuitively, a thousands-block pooling plan that includes all LNP-capable carriers would enable a more efficient and equitable conservation of numbers than a plan that excludes certain providers. n316 [**158] Thus, requiring CMRS service providers to participate in thousands-block number pooling once they have acquired LNP capability balances the desire to have as broad a range of thousands-block number pooling participants as possible with the desire to avoid imposing unnecessary costs on covered CMRS providers.

n316 *See, e.g.*, Colorado Commission comments at 6-7; Maine Commission comments at 21-22; Ohio Commission comments at 30; WinStar comments at 27-30.

140. We reject the arguments of certain CMRS providers that their participation in thousands-block number pooling will have so minimal an effect on number exhaustion that they ought to be excluded altogether. n317 These parties rely on the contentions that, in general, the number utilization rates of CMRS providers are higher than equivalent utilization rates of wireline carriers, that CMRS has been characterized by rapid growth and churn, and that CMRS providers typically do not need numbers in every rate center in a service area. n318 Although there may be truth to these assertions in certain instances, there is also evidence in the record that in many areas, CMRS providers would be able to make significant donations to thousands-block [**159] number pools and otherwise meaningfully contribute to the numbering efficiencies to be gained by thousands-block number pooling. For example, a study by the Colorado Numbering Task Force which shows that, in 1997 and 1998, cellular and PCS providers in that state had an average utilization rate of 58%, suggests that, despite this relatively high utilization rate, such carriers held over 1,300,000 numbers that could potentially be made available for thousands-block number pooling. n319 Moreover, CMRS utilization rates are not uniformly high. For example, the Maine Commission asserts that the wireless utilization rate in that state is only 33%. n320 Finally, we find that there is no reason to exempt CMRS providers, or any other class of [*7636] carriers, once LNP-capable, from participation in thousands-block number pooling based on high growth rates. Although thousands-block number pooling constrains carriers to acquire additional numbering resources in smaller increments, it does not limit the quantity of resources that a carrier may obtain, provided it can sufficiently demonstrate need in accordance with the guidelines. For these reasons, we conclude that once CMRS providers become [**160] LNP-capable, they should be treated the same as other LNP-capable users of numbering resources, including being required to participate in thousands-block number pooling under the same circumstances.

n317 *See, e.g.*, CTIA comments at 26-34; PCIA comments at 24-26; Voice Stream comments at 26. There is some suggestion that CMRS participation in thousands-block number pooling might significantly extend the life of the NANP. *See Notice, 14 FCC Rcd at 10393-94.* (citing the NANP Exhaust Study estimate that if thousands-block number pooling were implemented in 2000 by all wireline, CMRS and paging carriers, the life of NANP would be extended until 2051, compared with 2027 with no CMRS participation). It should be noted, however, that the NANP Exhaust study has been criticized by a number of the parties. *See, e.g.*, CTIA comments at 31-34; Omnipoint comments at 24-27; PCIA comments at 24-25.

n318 The number of rate centers in which wireless carriers may take numbers can range significantly, depending on geographic area, and the interconnection and billing arrangements they make with local wireline carriers. *See generally* Joint Cellular Carriers comments, Addendum (Joint Comments on the NANC Report). [**161]

n319 Colorado Commission comments at 7.

n320 Maine Commission comments at 21-22. The Maine Commission further notes that in one rate center, one wireless carrier only used nine of the 20,000 numbers assigned to it. *Id.*

3. Utilization Threshold for Non-LNP-Capable Carriers

141. Although we decline to require CMRS providers to participate in thousands-block number pooling until they achieve LNP capability, we require all non-LNP-capable carriers, including non-covered CMRS providers, to implement certain alternative number optimization measures so long as they are not LNP-capable. Specifically, we adopt the requirement, suggested by Nextel, and as discussed above, that non-LNP-capable carriers achieve a number utilization threshold before they are eligible to obtain a new growth code. n321 To require CMRS providers to meet utilization thresholds where they are not LNP-capable and therefore cannot practically participate in thousands-block number pooling will result in progress toward meeting our number conservation goals despite the lack of thousands-block number pooling by such carriers. Similarly, we will require carriers that are not required ever to become LNP-capable, [**162] such as paging companies, to meet utilization thresholds before obtaining growth codes, and as well for all other non-LNP-capable carriers (for example, wireline carriers in areas that do not have LNP-capability).

n321 Nextel comments at 20; Nextel reply comments at 8. *See supra* PP101-115 regarding our utilization threshold framework for growth codes.

142. We note here that, at the current time, we will not require carriers participating in thousands-block number pooling to meet a utilization threshold to receive growth codes. Once these carriers begin thousands-block number pooling, they will be required to identify unused or lightly-used thousands blocks within their inventories to be contributed back to the pool. n322 Moreover, thousands-block number pooling carriers will obtain new numbers in thousand number increments, and only when they can demonstrate the requisite MTE forecast. n323 Together, these aspects of pooling participation should ensure that thousands-block number pooling carriers use numbers efficiently in thousands-block number pooling areas, and we believe it would be unnecessarily burdensome to require them to comply with utilization thresholds in addition. [**163] Furthermore, as pointed out by Cincinnati Bell, unless the thresholds are set differently for thousands-block number pooling and non-pooling carriers, thousands-block number pooling carriers may be competitively disadvantaged by utilization thresholds compared with non-pooling carriers. For example, if a pooling carrier can only obtain a thousands-number block when it meets the specified threshold, and a non-pooling carrier is eligible to obtain a full NXX code, the non-pooling carrier may be able to offer service to more customers than the [*7637] pooling carrier before it must request more numbers. n324 However, as stated earlier, we may revisit the issue of whether to impose utilization threshold requirements on pooling carriers in the future if we find that such thresholds significantly increase number use efficiency. n325

n322 *See infra* PP190-91.

n323 *See* Thousands Block Pooling Guidelines at § 4.0 and Appendices 3 and 4.

n324 CinBell reply comments at 5.

n325 *See supra* P103.

C. Selection of Thousands-Block Number Pooling Administrator

a. Background

143. Section 251(e)(1) of the 1996 Act directs the Commission to "create or designate one [**164] or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis." n326 Section 251(e)(1) further states that nothing shall preclude the Commission from delegating to state commissions or other entities all or any portion of such jurisdiction. n327 Previously, the incumbent LEC within each geographic area had performed central office code assignment and area code relief functions, and Bell Communications Research (Bellcore) performed other numbering administration functions. As more new entrants entered the

telecommunications marketplace, the incumbent LECs' continued administration of the NANP became unacceptable for competitive reasons. Therefore, in 1995, the Commission directed the NANC to recommend an independent, non-governmental entity that is not closely associated with any particular industry segment to serve as the new NANP administrator. n328

n326 *47 U.S.C. § 251*(e)(1).

n327 *Id.*

n328 Administration of the North American Numbering Plan, *Report and Order, 11 FCC Rcd 2588, 2608 (1995)* (*NANP Order*). The Commission concluded that the actions taken in the *NANP Order* satisfied the section 251(e)(1) requirement that we create or designate an impartial numbering administrator. *See Local Competition Second Report and Order, 11 FCC Rcd at 19510.* In the *Local Competition Second Report and Order*, we noted that we had required there to be a new, impartial numbering administrator and established the model for how the administrator would be chosen. *Id.* We had thus taken "action necessary to establish regulation" leading to the designation of an impartial number administrator as required by section 251(e)(1). *Id.* [**165]

144. On February 20, 1997, the NANC issued a "Requirements Document," which set forth the desired qualities and attributes of the NANP administrator and the functions that it would be expected to perform. n329 On May 15, 1997, after evaluating bids from five interested parties, the NANC submitted to the Commission its recommendation that Lockheed Martin Communications Industry Services (CIS) be appointed to serve as the NANP administrator. In October 1997, the Commission accepted the recommendation of the NANC and selected Lockheed Martin CIS as the new NANP administrator, noting that it would perform the numbering administration functions previously performed by Bellcore, as well as area code relief [*7638] initiation and planning and CO code administration previously performed by the incumbent LECs. n330 Lockheed Martin CIS assumed the NANP administrator functions in February 1998. n331 On November 17, 1999, the NANPA functions were transferred to NeuStar which now serves as the NANP administrator. n332

n329 February 20, 1997 NANP Administration Requirements Document at § 1.2. *See* NEWS Report No. CC 97-8, NANC Seeks Proposals from the Entities Interested in Serving as North American Numbering Plan Administrator (Feb. 20, 1997). [**166]

n330 *See* Administration of the North American Numbering Plan, *Third Report and Order, Toll Free Service Access Codes, Third Report and Order, 12 FCC Rcd 23040, 23042, 23051-52, 23071-72 (1997)* (*NANP Administration Third Report and Order*).

n331 Lockheed Martin CIS had assumed the CO code administration functions in the United States under a longer transition timetable. The transition was completed in July 1999.

n332 On December 21, 1998, Lockheed Martin IMS informed the Commission that it had signed an agreement to sell Lockheed Martin CIS, the division that serves as the NANPA, to the management of that division and Warburg, Pincus Equity Partners, L.P., an affiliate of Warburg, Pincus and Company. *See* Request of Lockheed Martin Corporation and Warburg, Pincus & Co. for Review of the Transfer of the Lockheed Martin Communications Industry Service Business from Lockheed Martin Corporation to an Affiliate of the Warburg, Pincus & Co., CC Docket No. 92-237, NSD File No. 98-151, at 1, 5 (Dec. 21, 1998). On November 17, 1999, the Commission approved the transfer of NANPA functions to NeuStar, Inc., which is composed of many of the same personnel employed by the CIS unit. Request of Lockheed Martin Corporation and Warburg, Pincus & Co. for Review of the Transfer of the Lockheed Martin Communications Industry Services Business, *Order, 14 FCC Rcd 19792 (1999).* NeuStar also serves as the Local Number Portability Administrator for all eight regions in the United States and Canada, providing NPAC services. [**167]

145. In its role in advising the Commission on numbering issues, the NANC determined that thousands-block number pooling may appropriately be considered a numbering administration function, concluding that the services

provided by the NANP administrator should be expanded to include all of the functions of the Pooling Administrator. n333 With this initial conclusion, the NANC directed the NANPA Oversight Working Group to develop a Thousand Block Pool Administrator Requirements Document with the goal of submitting this document to NeuStar for a response. On January 18, 1999, the NANC submitted this document to NeuStar and requested a response. In February 1999, the thousands-block number pooling Issues Management Group (Pooling IMG) was created within the NANC to assess NeuStar's thousands-block number pooling administration proposal. The Pooling IMG's objective was to complete a proposed Pooling Administrator Requirements Document, negotiate the proposed terms and conditions under which the Pooling Administrator would function, and make a recommendation to the NANC. n334 During the next several months, NeuStar and the Pooling IMG held discussions regarding the proposal.

n333 *See* NANC Meeting Minutes, March 16-17, 1999, at 14. [**168]

n334 *See* Thousand Block Pooling Administration Issue Management Group, Pooling Administration Report and Recommendation to the North American Numbering Council, Feb. 8, 2000, at 3.

146. On July 21, 1999, the NANC approved the NANC Steering Committee's recommendation that the NANP administrator be appointed the Pooling Administrator subject to certain terms and conditions. n335 On July 30, 1999, then-NANC Chairman Alan Hasselwander [*7639] sent a letter to the Commission recommending that the NANP administrator be the national Pooling Administrator. n336 The NANC had concluded that having a separate entity serve as Pooling Administrator would lead to a more costly and less efficient arrangement, and likely delay the implementation of a thousands-block number pooling rollout. The Pooling IMG presented an updated Thousand Block Pool Administrator Requirements document to the NANC on December 22, 1999, which contained additional requirements for system delivery, performance credits, and provided further explanation regarding the intellectual property rights of the customer. n337 NeuStar submitted a response to the Thousand Block Pool Administrator Requirements Document on [**169] January 14, 2000. On February 23, 2000, the NANC recommended to the Commission that NeuStar be selected as the Pooling Administrator.

n335 *See* NANC Meeting Minutes, July 21, 1999, at 25-26.

n336 *See* Letter from Alan C. Hasselwander, Chairman, North American Numbering Council, to Lawrence E. Strickling, Chief, Common Carrier Bureau, dated July 30, 1999, *available at* <http://www.fcc.gov/ccb/Nanc/paral841etter.doc>.

n337 *See* Updated Thousands Block Pool Administrator Requirements Document, Dec. 22, 1999, *available at* <http://www.fcc.gov/ccb/Nanc/fpa1222.doc>. The NANC forwarded this item to the Commission on January 10, 2000.

147. As noted above, several state public utility commissions have been granted the authority to implement interim thousands-block number pooling trials. n338 NeuStar has been selected by these states to serve as the interim Pooling Administrator for the state pooling trials currently in place and some of those that are planned. n339 In the *Notice*, we sought comment on whether the NANP administrator should serve as the Pooling Administrator or whether we should seek competitive bids in response to a request for proposals or requirements, [**170] as we did with respect to NANP administration. n340

n338 *See California Delegation Order, 14 FCC Rcd at 17490-96; Connecticut Delegation Order* at PP12-24; *Florida Delegation Order, 14 FCC Rcd at 17510-16; Maine Delegation Order, 14 FCC Rcd at 16451-57; Massachusetts Delegation Order, 14 FCC Rcd at 17451-57; New Hampshire Delegation Order* at PP24-34; *New York Delegation Order, 14 FCC Rcd at 17470-76; Ohio Delegation Order* at PP27-39; *Texas Delegation Order* at PP11-23; *Wisconsin Delegation Order* at PP32-44.

n339 NeuStar serves as the interim thousands-block number Pooling Administrator in several states delegated thousands-block number pooling authority in 1999.

n340 *Notice, 14 FCC Rcd at 10402; see also NANP Order* at 2616.

b. Discussion

148. We find that our authority under section 251 (e)(1) of the 1996 Act to designate or create one or more impartial entities to administer telecommunications numbering and to make numbers available on an equitable basis extends [**171] to thousands-block number pooling administration. We also conclude that seeking competitive bids in response to a request for a proposal or requirements for thousands-block number pooling administration, as we did with respect to NANP administration, furthers the competitive framework that Congress established in implementing the 1996 Act and is consistent with federal procurement law. We believe that a competitive bid process that is open and fair, and will include the opportunity for participation [*7640] from all interested parties, will ensure the selection of the most qualified, cost-efficient Pooling Administrator. n341

n341 Letter from James J. McCullough, Counsel to Telcordia, to Magalie Roman Salas, dated February 16, 2000, at 5 (explaining that competition will provide the greatest opportunity to diversify numbering administration).

149. We note that appointing NeuStar, the current NANP administrator, to become the Pooling Administrator was also broadly supported in the comments and the replies to the *Notice*. n342 Some commenting parties nonetheless opposed a sole source procurement framework for the selection of a national thousands-block number Pooling Administrator. [**172] n343 Telcordia Technologies, Inc. (Telcordia), for example, expressed concern that the Commission would select the current NANP administrator as the Pooling Administrator without providing any opportunity for competition. n344 Telcordia further stated that any selection of the Pooling Administrator without holding a fair and open competitive bidding process is inappropriate and unlawful.

n342 *See, e.g.*, Ohio Commission comments at 34; Massachusetts Commission, Attachment A, Outline of State Response to Numbering NPRM at 15; Ameritech comments at 49; AT&T comments at 50; PrimeCo comments at 8-9 (stating that using another entity or multiple entities on a state-by-state basis would hinder the timely and competitively neutral allocation of NXX codes).

n343 *See* Letter from James J. McCullough, Counsel to Telcordia, to Magalie Roman Salas, dated February 16, 2000; Letter from James J. McCullough, Counsel to Telcordia, to Christopher Wright, FCC, and Lawrence Strickling, FCC, dated March 9, 2000; Letter from James J. McCullough, Counsel to Telcordia, to Christopher Wright, FCC, and Lawrence Strickling, FCC, dated March 10, 2000. *See also* WinStar comments at 30-31 (arguing for a competitive bidding process to alleviate neutrality concerns that would arise if the NANPA were selected as the Pooling Administrator). [**173]

n344 Letter from James J. McCullough, Counsel to Telcordia, to Magalie Roman Salas, dated February 16, 2000, at 2.

150. In contrast, NeuStar alleges that competitive bidding for the thousands-block number Pooling Administrator is not required. n345 NeuStar asserts that selection of the Pooling Administrator is more analogous to the designation of an agent and, as such, is governed by the Commission's organic authority as a regulator under the Communications Act, as amended, and not by federal procurement laws. n346 In the alternative, NeuStar alleges that even if such procurement requirements were applicable, competition is still not mandated, arguing that the Commission could modify NeuStar's existing NANPA functions to include thousands-block [*7641] number pooling, or award it a new contract on a sole source basis. n347 We need not resolve whether competition is required, however, because even if it is not, the Commission is free to select the Pooling Administrator on a competitive basis, as it did in choosing the NANP administrator in 1997. As a general matter, federal law assumes that competitive procedures best serve the public interest, and the arguments presented to [**174] us to designate NeuStar on a sole-source basis in this case do not convince us to proceed otherwise. First, the benefits that can be achieved through a competitive process, such as innovative proposals and lower costs, may well counterbalance any benefits of a sole source arrangement. Moreover, it is far from certain that awarding a contract to NeuStar would lead to the expeditious implementation of the thousands-

block number polling functions. The *ex parte* communications filed in the record of this proceeding indicate that any such award likely would be challenged by other potential service providers, and, if so, may be subject to automatic stay provisions in federal procurement law or other delay. n348 Thus, it is not certain that significant time efficiencies would be obtained. In any event, we believe that completion of a competitive procurement can be accomplished within a reasonable timeframe. NeuStar also believes it is the most qualified provider of pooling administration. To the extent that NeuStar may be better qualified, it will have the opportunity to demonstrate that in the evaluation process. In the interim, however, because of the potential for innovative concepts [**175] and cost savings obtained through free and open competition and the fact that designation of NeuStar now as the Pooling Administrator may not lead to more expeditious provision of national pooling administration, and because competitive procedures can be initiated reasonably quickly, we believe that the public interest is best served through a competitive process that is consistent with our pro-competitive, deregulatory national policy and the policy considerations underlying federal laws requiring competition.

n345 Letter from Cheryl A. Tritt, Counsel to NeuStar, to Magalie Roman Salas, FCC, dated February 25, 2000, at 2; Letter from Cheryl A. Tritt, Counsel to NeuStar, to Magalie Roman Salas, FCC, dated March 9, 2000; Letter from Cheryl A. Tritt, Counsel to NeuStar, to Magalie Roman Salas, FCC, dated March 13, 2000.

n346 Letter from Cheryl A. Tritt, Counsel to NeuStar, to Magalie Roman Salas, FCC, dated February 25, 2000. We note, however, that in all of the case authorities cited by NeuStar, the government used competitive procedures in selecting the agents at issue. *See, e.g., United States v. Citizens & Southern Nat'l Bank, 889 F.2d 1067, 1069 (Fed. Cir. 1989)* (more than 20 proposals received); *Grisby Brandford & Co. v. A.H. Williams, 869 F. Supp. 984, 988 (D.D.C. 1994)* (11 proposals received); *Saratoga Dev. Corp. v. United States, 21 F.3d 445, 451 (D.C. Cir. 1994)* (7 proposals received); *National Loan Servicecenter v. Department of Housing and Urban Dev., GSBCA No. 12193-P, 93-2 B.C.A. (CCH) P25,853* (March 2, 1993), *available at 1993 WL 59339.* [**176]

n347 Letter from Cheryl A. Tritt, Counsel to NeuStar, to Magalie Roman Salas, FCC, dated March 9, 2000; Letter from Cheryl A. Tritt, Counsel to NeuStar, to Magalie Roman Salas, FCC, dated March 13, 2000.

n348 *See* Letter from James J. McCullough, Counsel to Telcordia, to Magalie Roman Salas, dated February 16, 2000; Letter from James J. McCullough, Counsel to Telcordia to Christopher Wright, FCC, and Lawrence Strickling, FCC, dated March 9, 2000; Letter from James J. McCullough, Counsel to Telcordia, to Christopher Wright, FCC, and Lawrence Strickling, FCC, dated March 10, 2000. *See also 31 U.S.C. § 3553* (c)-(d); 4 C.F.R. § 21.6.

151. MCI WorldCom's *ex parte* submission makes similar arguments to NeuStar's, and also alleges that the federal requirement for full and open competition is inapplicable here because the funding for the Pooling Administrator is not of a public nature. n349 However, it is clear that even in contracts that do not involve the expenditure of money by the agency, the General Accounting Office will review protests under its authority under the Competition in Contracting Act. n350 In any event, based on our [**177] conclusion that the public interest is better served through the competitive bidding process, we conclude that the selection of the Pooling Administrator should be done under this framework in this case.

n349 Letter from Henry G. Hultquist, MCI WorldCom, to Christopher Wright, FCC, and Lawrence Strickling, FCC, dated March 1, 2000, at 6-7.

n350 *41 U.S.C. § § 251* et seq.; *31 U.S.C. § § 3551* et seq.; *see also* N&N Travel and Tours, Inc. B-283731, B-283731.2, 99-2 CPD, P113 (Dec. 21, 1999), *available in 1999 WL 1267046.*

[*7642] 152. We acknowledge that it may be desirable in the future to link the thousands-block number pooling administration and central office code administration duties to take advantage of any synergies that may exist between these functions. We also acknowledge the efforts of the NANC which has provided an initial proposal of the duties and functions of the Pooling Administrator. However, we recognize that vendor diversity for number administration services may have advantages for the industry and the public. We believe that a competitive bidding process [**178] will serve

the public interest by helping to ensure the selection of the most qualified Pooling Administrator who can perform the duties in the most cost effective manner. n351 We conclude, therefore, that based on policy and legal grounds, we will seek competitive bids for a national Pooling Administrator.

n351 *See* WinStar comments at 30-31.

153. *Criteria for Competitive Bidding.* We believe that thousands-block number pooling administration would best be performed by a single, non-governmental entity selected by this Commission and, therefore, subject to our oversight, but also separate from this Commission and not closely identified with any particular industry segment. As with NANP administration, we find that it would be very difficult, if not impossible, for a thousands-block number Pooling Administrator closely associated with a particular segment of the telecommunications industry to be impartial, and that even if such an entity were impartial, there could still be the perception that it was not, as a result of such an association. n352

n352 *NANP Order, 11 FCC Rcd at 2613.*

154. We conclude, therefore, that the thousands-block number [**179] Pooling Administrator should be a non-governmental entity that is not aligned with any particular telecommunications industry segment. n353 The Pooling Administrator must be fair and impartial. The Pooling Administrator must also meet neutrality criteria similar to that articulated in the *NANP Administration Third Report and Order*: 1) the Pooling Administrator may not be an affiliate n354 of any telecommunications service provider as defined in the 1996 Act; n355 2) the Pooling [*7643] Administrator and any affiliate may not issue a majority of its debt to, nor derive a majority of its revenues from any telecommunications service provider; n356 and 3) notwithstanding the neutrality criteria set forth in 1) and 2) above, the Pooling Administrator may be determined to be or not to be subject to undue influence by parties with a vested interest in the outcome of numbering administration and activities. n357

n353 *Id. at 2609.*

n354 "Affiliate" is defined as a person who controls, is controlled by, or is under the direct or indirect common control with another person. A person shall be deemed to control another if such person possesses, directly or indirectly; (i) an equity interest by stock, partnership (general or limited) interest, joint venture participation, or member interest in the other person ten percent (10%) or more of the total outstanding equity interests in the other person; or (ii) the power to vote ten percent (10%) or more of the securities (by stock, partnership (general or limited) interest, joint venture participation, or member interest) having ordinary voting power for the election of directors, general partner, or management of such other person; or (iii) the power to direct or cause the direction of the management and policies of such other person, whether through the ownership of or right to vote voting rights attributable to the stock, partnership (general or limited) interest, joint venture participation, or member interest of such other person, by contract (including but not limited to stockholder agreement partnership (general or limited) agreement, joint venture agreement, or operating agreement), or otherwise. *See* 47 C.F.R. § 52.12(a)(1)(i); *see also NANP Administration Third Report and Order, 12 FCC Rcd at 23076.* [**180]

n355 In the *NANP Administration Third Report and Order*, the Commission concluded, based on precedent analyzing the meaning of the term common carrier, that an entity is a telecommunications service provider if it has been authorized to offer services indiscriminately to the public, and is, therefore, providing services on a common carrier basis. *NANP Administration Third Report and Order, 12 FCC Rcd at 23077. See also* Universal Service Order Federal-State Joint Board on Universal Service, *Report and Order, 12 FCC Rcd 8776, 9177 (1997); National Association of Regulatory Utility Commissioners v. FCC, 553 F.2d 601, 608 (D.C. Cir. 1976);* MTS and WATS Market Structure, Phase I, *Third Report and Order, 93 FCC 2d 241 (1982).*

n356 "Majority" is defined to mean greater than 50%, and "debt" is defined to mean stocks, bonds, securities, notes, loans or any other instrument of indebtedness. 47 C.F.R. § 52.12(a)(1)(ii); Requirements Document at § 1.2; *see also NANP Administration Third Report and Order, 12 FCC Rcd at 23076.* [**181]

n357 47 C.F.R. § 52.12(a)(1)(iii); *see also NANP Administration Third Report and Order, 12 FCC Rcd at 23076.*

155. For purposes of the competitive bidding process, technical requirements for a Pooling Administrator must be specified. The NANC has been addressing these significant issues in its role in advising the Commission on numbering. To ensure a competitive process, and within 90 days of release of this *Report and Order*, we direct the NANC, with the active participation of all interested parties, to propose revisions to the existing, proposed thousand-block Pooling Administrator Requirements Document to specify the technical requirements for the Pooling Administrator. In addition, the Commission will release a Public Notice seeking comment on the technical requirements for the Pooling Administrator which it will consider. Finally, we delegate authority to the Commission's Office of the Managing Director, with the assistance of the Common Carrier Bureau and the Commission's Office of General Counsel, to prepare the necessary bidding information and to develop an appropriate evaluation process. Based upon these efforts, the Commission will [**182] solicit bids for a national Pooling Administrator to serve until the completion of the current NANP administrator term.

D. Implementation Issues

1. National Framework

156. We believe based on the readiness of thousand block number pooling standards and technical requirements, n358 that thousands-block number pooling can be implemented on a national level within nine months of the selection a national thousands-block number Pooling Administrator. In the interim, we will continue to make individual delegations of authority to states seeking to implement thousands-block number pooling trials, subject to the parameters we set forth in our previous orders delegating additional numbering authority to state commissions to the extent that they are consistent with our national pooling framework set forth in this *Report and Order.* n359 Although the ultimate goal, to maximize the optimization of the resource, is to implement pools in as many rate centers as possible, we are constrained from implementing [*7644] pooling everywhere because it is dependent on LNP capability. Therefore, when we begin to implement pooling at the national level, we will initially concentrate our implementation [**183] efforts in those areas in which all or most carriers are LNP-capable--*i.e.*, the top 100 MSAs and in areas where pooling trials have begun. Once thousands-block pooling is implemented in an area, LNP-capable carriers will only receive numbers in blocks of one thousand for all purposes, including the establishment of an initial footprint as well as for growth needs. Consistent with the Thousand Block Pooling Guidelines, carriers will be required to donate all unused or lightly-used blocks (*i.e.*, with ten percent or less contamination) to initially stock the pool. n360 Carriers that participate in pooling will not be required to meet utilization thresholds to obtain growth codes initially. We may, however, revisit the question of whether all carriers should be subject to meeting a utilization threshold to obtain growth codes if we find that such thresholds significantly increase numbering use efficiency.

n358 *See infra* PP172-83.

n359 *See supra* P128.

n360 *See* Thousand Block Pooling Guidelines at § 3.0.

a. Implementation Schedule

157. In the *Notice*, we acknowledged that thousands-block number pooling could only be implemented in a limited number [**184] of areas at any given time. We observed that, because LNP capability is mandatory in the largest 100 MSAs, the degree of deployment of LNP is greatest in switches located within the largest 100 MSAs. n361 Given the relationship of LNP implementation with thousands-block number pooling, we tentatively concluded that any deployment schedule for thousands-block number pooling should initially be tied to the largest 100 MSAs. n362 In addition, we sought comment on whether the implementation should be staggered, like the LNP implementation schedule, to include the largest MSAs in the first group, with implementation in smaller MSAs later. n363 Furthermore,

we sought comment on whether we should establish specific criteria to justify a mandate of pooling in an area, or, to relieve an area from a pooling mandate. n364 We further sought comment on which entity, this Commission or a state commission, should decide whether to implement pooling in a given area. n365 In the alternative, we sought comment on whether state commissions (or another entity) could decide to opt into or opt out of an established implementation schedule for nationwide roll-out of pooling and also whether another entity [**185] should be permitted to make this decision when the state commission declines to do so. n366 We further sought comment on whether the choice to opt in or opt out of an [*7645] established implementation schedule for the national pooling framework should be made on an entire MSA, an NPA within the MSA, or on a rate center by rate center basis. n367 Because carriers are only required to implement LNP if requested by another carrier subject to the requirements established by this Commission, n368 we sought comment on whether we have the authority, under the 1996 Act, to order LNP capability primarily for the purpose of thousands-block number pooling. n369 We also sought comment on whether we may delegate to other entities the authority to order carriers to implement LNP for number utilization purposes. n370

n361 *Notice, 14 FCC Rcd at 10386.* The Commission required wireline carriers in the largest 100 MSAs to implement LNP as of December 31, 1998, in switches that another carrier has requested be made LNP capable. *See* 47 C.F.R. section 52.23(b)(1). As of January 1, 1999, LECs may request LNP in other LECs' individual switches in areas outside of the largest 100 MSAs, to be provided no later than six months after receiving the request. CMRS carriers are not required to deploy LNP until November 24, 2002. 47 C.F.R. § 52.23(b)(2)(iv)(C) and (D). [**186]

n362 *Notice, 14 FCC Rcd at 10386.*

n363 *Id. at 10390.*

n364 *Id. at 10387-88.*

n365 *Id. at 10387.*

n366 *Id.*

n367 *Id. at 10390.*

n368 *See* 47 C.F.R. § 52.23(b)-(c).

n369 Currently, our rules specify that only another carrier may request a LEC to provide number portability in a given switch. 47 C.F.R. § 52.23(b)(1).

n370 *Notice, 14 FCC Rcd at 10386.*

158. Consistent with our tentative conclusion, we conclude that the rollout of thousands-block number pooling should first occur in NPAs that are located in the largest 100 MSAs. n371 We do so because it appears that the greatest benefits from pooling are achieved when all, or most, participating carriers are LNP-capable, and thus are able to participate in pooling. n372 We note that, although we are using the MSAs to generally identify where LNP is prevalent, implementation of thousands-block number pooling would occur in specific NPAs within those MSAs. n373 Moreover, because numbers can only be pooled among carriers [**187] using numbers in a given rate center, each rate center within the pooled NPA would have to have its own pool. We further clarify that where an NPA encompasses areas both inside and area outside of the qualifying MSA, pooling will be required only in those rate centers in the NPA which are a part of the MSA.

n371 *Id.* The majority of commenters also agreed with our tentative conclusion. *See, e.g.*, Cox comments at 15; GTE comments at 46; Nextel comments at 19; MediaOne at 23; U S West comments at 20; PrimeCo comments at 7; Ameritech comments at 37, 40; SBC comments at 73, 85-86; BellSouth reply comments at 12; USTA comments at 8, 9; ALTS comments at 23; U S West comments at 20; California Commission comments at 29.

n372 Qwest comments at 4; Time Warner comments at 7.

n373 *See* AT&T comments at 42, 44. We agree with the Colorado Commission that where a rate center is larger than the MSA, an alternative geographic boundary such as the NPA should be used. *See* Colorado Commission comments at 7.

159. Most commenters also support a staggered roll-out schedule, which, similar to the LNP implementation schedule, includes NPAs within the largest MSAs in one group, with [**188] implementation in NPAs within smaller MSAs later. n374 Although most states and many carriers recommend that thousands-block number pooling be available for implementation immediately in all NPAs that are LNP-capable, n375 we find that a staggered rollout schedule is necessary, [*7646] primarily because an overload of the telecommunications network may cause network disruptions when carriers' Service Control Points (SCPs) capacity has been depleted. n376 Based on input we received from NeuStar, the current pooling administrator of ongoing state trials, we also tentatively conclude that the rollout should encompass a maximum of three NPAs in each NPAC region per quarter. n377 The current Pooling Administrator of the ongoing state trials. NeuStar, Inc., has informed us that the timeframe for completion of the necessary administrative work to enable an NPA to be ready to pool is at least three months. n378 We believe that confining the rollout of pooling to three NPAs per NPAC region per quarter will ensure that our rollout schedule does not strain resources of the national thousands-block number Pooling Administrator and is undertaken smoothly. Also, a staggered roll-out will provide [**189] carriers time to upgrade or replace their SCPs and other components of their network, as necessary, if the increased volume of ported numbers as a result of pooling requires them to do so. n379 We, however, do not see the need to have three-month intervals between each phase of the staggered rollout, as suggested by Ameritech, n380 or the other more limited roll out schedules proposed by some commenters. n381 Since we believe that the benefits of thousands-block number pooling should be realized as soon as possible, we conclude that we should implement pooling in the maximum number of NPAs that are manageable.

n374 *See, e.g.* AT&T comments at 39; MCI WorldCom comments at 13; USTA comments at 9.

n375 Massachusetts Commission comments at 11; Massachusetts Department of Telecommunications and Energy, Attachment A, Outline of State Response to Numbering NPRM at 13, 14; Texas Commission comments at 23; North Carolina Commission comments at 12; New Hampshire Commission comments at 14. *See also* Bell Atlantic comments at 24; Cox comments at 15.

n376 ALTS comments at 25; Ameritech comments at 43. An SCP is a database in the public switched telephone network that contains information and call processing instructions needed to process and complete a telephone call. The network switches access an SCP to obtain such information. [**190]

n377 *See* Letter from Leonard S. Sawicki, NeuStar, to Magalie Roman Salas, FCC, dated December 21, 1999.

n378 *Id.*

n379 ALTS comments at 25; Ameritech comments at 43.

n380 Ameritech comments at 37, 40.

n381 *See, e.g.*, Ameritech comments at 37, 40; AT&T comments at 44 (one NPA a month per NPAC region); MCI WorldCom comments at 12 (two NPAs a month per NPAC region); USTA comments at 18, 19 (one NPA a month per NPAC region); Letter from Elridge A. Stafford, US West, to Magalie Roman Salas, FCC, dated March 9, 2000 (two NPAs per quarter per region).

160. In our determination of which NPAs should be placed on the initial roll-out schedule, we decline to establish specific criteria at this time. n382 We acknowledge that the use of such criteria would provide us with a more exact and localized picture regarding the suitability of pooling in each NPA. We conclude, however, that it would be extremely difficult for us to gather the necessary, underlying information that the application of such criteria would require, as well as incorporate it in a timely manner on the rollout schedule to give carriers adequate notice that pooling will be implemented in an NPA [**191] in which they provide service. n383

n382 *See* Ameritech comments at 38, 44; BellSouth comments at 22; GTE comments at 44.

n383 Maine Commission comments at 21.

[*7647] 161. Although we will not commence national thousands-block number pooling implementation until we select a thousands-block number Pooling Administrator, we seek to give carriers and states notice of how the national rollout will be conducted. We will establish a national rollout schedule that will be divided in three-month segments, with the first round of implementation beginning nine months after the selection of a pooling administrator. n384 The schedule for each quarter will contain three NPAs from each of the seven NPAC regions that are within the largest 100 MSAs. n385 Thus, we anticipate that at least twenty-one NPAs will be pooled each quarter. n386 Our determination of which NPAs should be placed on the initial rollout schedule will be based on three categories of NPAs. These categories include: 1) NPAs that were initially pooled or scheduled to be pooled pursuant to our delegations of pooling authority to state commission; 2) jeopardy NPAs in the largest 100 MSAs which have a life of one year [**192] or more; 3) new NPAs. Consistent with the findings in our delegation orders that the NPAs targeted by these states will benefit from pooling, we conclude that our rollout schedule should first include NPAs that are pooled or slated to be pooled by state commissions. n387 We also agree with commenters who recommend that the initial rollout schedule should focus on jeopardy NPAs that are within the largest 100 MSAs. n388 We further clarify that in NPAs that are within the largest 100 MSAs that receive an overlay NPA, both the original and overlaid NPAs shall be subject to pooling. However, because NPAs that are created as a result of a geographic split are essentially new NPAs with a geographic identification that is different from that of the original NPA, we do not require, but will permit, new NPAs that result from a geographic split to be pooled at the same time.

n384 We will announce each round of implementation by *Public Notice* at least six months prior to the effective date.

n385 Additional NPAs in the largest 100 MSAs in a particular LLC region would be eligible for pooling implementation despite the existence of a pooled NPA within that LLC region. Because each NPAC region does not have the same number of large MSAs, we will, at a later date, modify our rollout plan per NPAC region to ensure that the NPAs in the largest MSAs are pooled first. [**193]

n386 This would mean that 84 NPAs would be pooled annually.

n387 *See California Delegation Order, 14 FCC Rcd at 17490-96; Connecticut Delegation Order* at PP12-24; *Florida Delegation Order, 14 FCC Rcd at 17510-16; Maine Delegation Order, 14 FCC Rcd at 16451-57; Massachusetts Delegation Order, 14 FCC Rcd at 17451-57; New Hampshire Delegation Order* at PP24-34; *New York Delegation Order, 14 FCC Rcd at 17470-76; Ohio Delegation Order* at PP27-39; *Texas Delegation Order* at PP11-23; *Wisconsin Delegation Order* at PP32-44.

n388 Cox comments at 15; MediaOne comments at 23; Nextel comments at 19; PrimeCo comments at 7.

162. The initial rollout schedule will also include jeopardy NPAs from within the largest 100 MSAs, along with NPAs from state-ordered pooling trials. Furthermore, we conclude that NPAs that will exhaust in less than a year, based on the most current quarterly forecast issued by the NANPA at the time the quarterly schedule is established, will not be treated as priority NPAs for pooling purposes. [**194] n389 We find that the benefit of the limited life extension of the NPA that may be achieved by implementing pooling in NPAs with only a small [*7648] number of NXXs still available would not likely exceed the costs. n390 We, however, reject the other parameters for the exhaust projection or life extension of an NPA, as suggested by some parties n391 because we conclude that these parameters are not realistic, given the magnitude of area code exhaust occurring throughout the nation, as evidenced by the fact that approximately 23 percent of the total number of NPAs nationwide are in jeopardy. n392 Moreover, we believe that the cost savings from delaying area code relief for even just two years, as in the 847 NPA in Illinois, wherein pooling extended the life of the NPA from 18 months to three and a half years, represents a substantial benefit to consumers, businesses, and state commissions. n393

n389 AT&T comments at 42, 44.

n390 AT&T comments at 43; SBC reply comments at 17.

n391 U S West comments at 21 (three-year exhaust projection); SBC reply comments at 17 (two-year exhaust projection and three to five year life extension achieved); GTE comments at 40 (5 year life extension achieved). [**195]

n392 Currently, 72 of the 317 total NPAs in the United States are in jeopardy. This information was compiled based on data from the following Internet cites: <http://www.nanpa.com>; <http://www.lincmad.com>; and <http://www.census.gov>.

n393 *See* Ganek, *Leveraging LNP*, Telephony, February 7, 2000.

163. Furthermore, we are sensitive to concerns that a national pooling framework will not provide states with the flexibility to delay the implementation of pooling in NPAs within their states. n394 Therefore, we will permit states to choose to opt out of the rollout schedule on a temporary basis by informing the Pooling Administrator of their decision three months prior to the rollout date. n395 The choice to opt out must be made on an NPA-wide basis. We emphasize, however, that a state does not have the option to opt out of our requirement to conform to the standards of the national program in the operation of an ongoing pooling trial.

n394 Ad Hoc comments at 5; Connecticut Commission comments at 5; Maine Commission comments at 22; Massachusetts Commission comments at 12; New Hampshire Commission comments at 15; Ohio Commission comments at 30.

n395 Nextlink, however, argues that states should be required to petition for a waiver to opt out. *See* Nextlink comments at 10. We see no need to impose such an onerous requirement in this instance, given the large number of states that are eager to commence pooling in NPAs in their state. [**196]

164. In addition, to serve the needs of states outside of the top 100 MSAs which believe that pooling would be beneficial in an NPA within their state, we will consider petitions to opt in to the national pooling rollout schedule. n396 We will accommodate such requests, however, in instances where space is available on the schedule due to an opening created by a state's opting out, or in demonstrated special circumstances, if the Pooling Administrator can accommodate the request in addition to the twenty-one scheduled implementations. Similar to our requirements for a state to justify its request for pooling authority prior to the implementation of national pooling, a state choosing to opt in must demonstrate that: 1) an NPA in its state is in jeopardy, 2) the NPA in question has a remaining a life span of at least a year, and 3) the [*7649] majority of wireline carriers in the NPA are LNP-capable. n397 We will also consider state requests to opt into the national pooling rollout schedule where a state demonstrates special circumstances. We decline to determine at this time what such "special circumstances" may include, but will consider such requests on a case-by-case basis. [**197] The decision to opt in would only be on an NPA-wide basis. Although some parties oppose the ability of states that are not in the largest 100 MSAs to opt in to our initial rollout schedule for thousands-block pooling, we conclude that such flexibility is necessary in light of the diverse numbering conditions present in each state. n398

n396 *See* Citizens Util. Bd. *et al.* comments at 11; Connecticut Commission comments at 5; Maine Commission comments at 19; New York Commission comments at 13; Small Business Alliance comments at 10.

n397 Some parties support the opt in approach for these states provided a lengthy analysis is not required. *See* North Carolina Commission comments at 13; Small Business Alliance comments at 10; Citizens Util. Bd. *et al.* comments at 7, 28; Maine Commission comments at 22.

n398 ALTS comments at 24.

165. To permit a greater level of state participation in the choice of the NPAs which will be pooled, n399 we will also permit state commissions to substitute the NPA listed in the rollout schedule with an alternative NPA, as long as the substitute NPA has a life span of at least one year and is located within one of the top 100 MSAs. To [**198] exercise this option, the state must inform the thousands-block number Pooling Administrator within 15 days of the

release of the roll out schedule for that quarter. We will not depart, however, from our default deployment schedule based on the largest 100 MSAs to accommodate jeopardy NPAs outside the largest 100 MSAs, as some commenters argue we should. n400 We believe that the greater demand for numbering resources from competitive forces within the top 100 MSAs persuades us to focus the thousands-block number Pooling Administrator's limited resources on these areas first, before moving on to areas outside the top 100 MSAs. We believe these provisions will provide an adequate degree of flexibility in our national thousands-block pooling plan.

n399 SBC comments at 73, 85-86; MCI WorldCom comments at 13-14.

n400 Nextel comments at 19; MediaOne comments at 23. In many instances, the lack of LNP-capability in these areas would prevent the establishment of an effective thousands-block number pool.

166. We also require the thousands-block number Pooling Administrator, once selected, to establish the initial rollout schedule and submit it to the Common Carrier Bureau for approval [**199] within 60 days after being selected. Pursuant to this task, the selected Pooling Administrator must, as an initial task upon its appointment, identify the largest 100 MSAs within each NPAC region, note the pooling trials initiated pursuant to delegated authority from the Commission, and identify the jeopardy NPAs, by NPAC region, which are scheduled to exhaust within one year. Moreover, the Pooling Administrator shall submit to the Common Carrier Bureau the roll out schedule for each subsequent quarter at least 90 days prior to the effective date of that schedule.

b. Implementation Timeframe

167. In the *Notice* we recognized that the time needed to implement thousands-block number pooling is dependent on a number of variables, including the extent of LNP deployment, [*7650] the provisioning method chosen, compatibility of service providers, operational support systems, selection of a Pooling Administrator, the need for enhancements to switches, SCPs, and other service provider systems, and availability of necessary hardware and software changes from vendors. We identified the specific pooling administration tasks that needed to be completed, including the development of [**200] Pooling Administration guidelines, selection of a Pooling Administrator, and development by the Pooling Administrator of an automated system for allocation of pooled number resources, built according to industry-supplied specifications and requirements. We further discussed the technical tasks required to implement thousands-block number pooling, which include the selection of a pooling deployment method, development and deployment of enhancements to the NPAC SMS to accommodate pooling, development of switch requirements, and system testing. Lastly, we listed the tasks that service providers, together with equipment vendors, must accomplish to achieve thousands-block number pooling. These tasks include modifications to service provider LSMSs and SCPs, enhancements to Service Order Administration systems (SOAs) and operations support systems; enhancements to switches, and subsequent testing. We also sought comment on the NANC Report's estimate that thousands-block number pooling could be implemented within 10 to 19 months from a regulatory order. n401

n401 *See* NANC Report at § 5.3.3.

168. We observe that a number of key pre-pooling activities, including the deployment of LNP [**201] throughout the largest 100 MSAs and the development of the Thousands Block Pooling Guidelines regarding the administration of thousands-block number pooling, have already been completed. Moreover, the NANPA and the NANC have been engaged in an ongoing analysis of current and future numbering needs. In addition, the selected thousands-block number Pooling Administrator for the ongoing state pooling trials. NeuStar, Inc., has announced the activation in July 2000 of LNP software that will facilitate the transfer of large ranges of numbers as a single message through a data formatting method known as Efficient Date Representation (EDR). n402 Although we do not endorse the adoption of this particular software at this time, we believe that the incorporation of EDR in such software is significant because it will reduce the strain on the network from the large volume of number porting that is likely to occur once thousands-block number pooling is implemented nationally. It is also our understanding that other entities could also develop pooling software with this EDR feature. Furthermore, because pooling is already underway in certain NPAs, we believe that a long lead time is not necessary [**202] to iron out significant technical issues. Thus, we conclude that the implementation time frame for initiating thousands-block number pooling should be no longer than nine months after the date on which the Pooling Administrator is selected. Although several carriers contend that a longer [*7651] implementation time frame is necessary, n403 we find that, because much of the prerequisite work has been done, the shorter time frame is sufficient and appropriate. n404

n402 *See* NeuStar, Response to Frequently Asked Questions Regarding Number Pooling, November 17, 1999, *available at* <http://www.nanpa.com>.

n403 Bell Atlantic comments at 25 (16 months plus one year for all carriers)); U S West comments at 22 (18 months); Ameritech comments at 42, 43 (18 months); USTA comments at 8 (19 months); BellSouth reply comments at 12 (27 months).

n404 Several states have received delegated authority to implement thousands-block number pooling. We believe that most, if not all technical issues will be resolved in these trials.

2. Delegations of Authority for Pooling to State Commissions

169. To enable consumers to receive the benefits of thousands-block number pooling as soon [**203] as feasible, we will continue to grant states authority to implement thousands-block number pooling on an individual basis. Therefore, subsequent to the release of this *Report and Order*, the Common Carrier Bureau will issue its determinations on pending state petitions requesting pooling authority. n405 As indicated in our orders delegating pooling authority to state commissions, the national thousands-block number pooling framework, including the technical standards and pooling administration provisions, will supersede these interim delegations of authority to state commissions. n406 Furthermore, state commissions receiving new delegations of pooling authority from us must conform to the national framework. We agree with commenters who state that uniform standards for thousands-block number pooling are necessary to minimize the confusion and additional expense related to compliance with inconsistent regulatory requirements. n407 We thus seek to maintain uniformity in the implementation of thousands-block number pooling on a nationwide basis. Moreover, our existing delegations of pooling authority to state commissions will continue until national pooling implementation occurs, [**204] provided they comply with our national pooling framework. We recognize, however, that pooling trials already underway may not conform to the standards set forth herein, and therefore, we give state commissions until September 1, 2000, at the latest, to bring their pooling trials into conformity with the national framework set forth herein.

n405 As of March 30, 2000, the following states have pending petitions for additional delegated authority to implement number conservation measures before the Common Carrier Bureau: Arizona, Colorado, Georgia, Indiana, Iowa, Kentucky, Missouri, Nebraska, North Carolina, Oregon, Pennsylvania, Tennessee, Utah, Virginia, Washington.

n406 *See, e.g., California Delegation Order, 14 FCC Rcd at 17490-96; Connecticut Delegation Order* at PP12-24; *Florida Delegation Order, 14 FCC Rcd at 17510-16; Maine Delegation Order, 14 FCC Rcd at 16451-57; Massachusetts Delegation Order, 14 FCC Rcd at 17451-57; New Hampshire Delegation Order* at PP24-34; *New York Delegation Order, 14 FCC Rcd at 17470-76; Ohio Delegation Order* at PP27-39; *Texas Delegation Order* at PP11-23; *Wisconsin Delegation Order* at PP32-44. [**205]

n407 AT&T comments at 37-40; SBC comments at 80; Nextlink comments at 10.

170. Similar to the procedure employed in our delegations of authority to implement number conservation measures, including thousands-block number pooling, states seeking such authority must individually petition us for such authority. We also continue our delegation of authority to the Common Carrier Bureau to rule on such petitions for additional delegation of [*7652] numbering authority when no new issues are raised. n408 Furthermore, to ensure that pooling is implemented in areas where it has the potential to be most beneficial, we require that states include a showing of specific criteria in their petitions for pooling authority. Each petition must demonstrate that: 1) that an NPA in its state is in jeopardy, 2) the NPA in question has a remaining life span of at least a year, n409 and 3) that NPA is in one of the largest 100 MSAs. or alternatively, the majority of wireline carriers in the NPA are LNP-capable. We, however, recognize that there may be "special circumstances" where pooling would be of benefit in NPAs that do not meet all of the above criteria, and we may, thus, authorize pooling in [**206] such an NPA upon a satisfactory showing by the state commission of such circumstances. To the extent that the pending state petitions do not demonstrate that the state possesses the criteria we require for future delegations of pooling authority, the state commission must supplement its

existing filing with the Common Carrier Bureau within 30 days of release of this *Report and Order*. Although our national pooling framework implements pooling on an NPA basis within the largest 100 MSAs, we will continue to grant states interim pooling authority in a single MSA in their state. A state may expand pooling to another MSA only after having implemented pooling in the initial MSA and after allowing carriers sufficient time to undertake necessary steps to accommodate thousands-block number pooling, such as modifying databases and upgrading switch software.

n408 *Pennsylvania Numbering Order, 13 FCC Rcd at 19030-31; see also Texas Delegation Order* at P5.

n409 *See supra* P164.

171. Consistent with our statements in the delegation orders, we reiterate that, to ensure that consumers are never foreclosed from exercising their choice of carrier because [**207] that carrier does not have access to numbering resources, state commissions must take all necessary steps to prepare an NPA relief plan when it seeks to implement a pooling trial in an NPA which is in jeopardy. Area code relief is ultimately a federal question, although we have delegated to states authority to handle these matters. It is our policy that no carriers should be denied numbering resources simply because needed area code relief has not been implemented. A number of carriers have raised concerns in this proceeding that some states may not be developing and implementing area code relief plans in a timely manner. We are troubled by these allegations, and we will closely monitor these situations to ensure that federal numbering policies are followed. We also emphasize that only those carriers that have implemented LNP capability shall be subject to pooling, and a state commission does not have the authority to require LNP capability solely for the purpose of being able to participate in pooling. Moreover, non-LNP capable carriers operating in NPAs that are subject to pooling shall have the same access to numbering resources as they had prior to the implementation of pooling. [**208] States implementing pooling must also ensure that they provide carriers with an adequate transition time to implement pooling in their switches and administrative systems. In addition, because our national cost recovery plan cannot become effective until national pooling implementation occurs, states conducting their own pooling trials must develop their own cost recovery scheme for the joint and carrier-specific costs of implementing and administering pooling in the NPA in question. The individual state cost-recovery schemes, however, will transition to the national cost-recovery plan when it becomes effective. As we determined in our delegation orders, states [*7653] must ensure that the costs of number pooling are recovered in a competitively neutral manner, pursuant to section 251(e)(2) of the Act. n410

n410 *See California Delegation Order, 14 FCC Rcd at 17494-95; Connecticut Delegation Order* at P20; *Florida Delegation Order, 14 FCC Rcd at 17513-14; Maine Delegation Order, 14 FCC Rcd at 16456-57; Massachusetts Delegation Order, 14 FCC Rcd at 17454-55; New Hampshire Delegation Order* at P33; *New York Delegation Order, 14 FCC Rcd at 17474-75; Ohio Delegation Order* at P35; *Texas Delegation Order* at P19; *Wisconsin Delegation Order* at P40. [**209]

3. Thousands-Block Number Pooling Standards

a. Background

172. As we explained above, thousands-block number pooling involves the allocation of blocks of sequential telephone numbers within the same NXXX code to different service providers, and possibly different switches, within the same rate center. In the future, allocations will be accomplished via a Pooling Administrator, n411 who coordinates the allocation of thousands blocks to a particular service provider with the NPAC SMS. n412 Under the current system, entire NPA-NXXs (10,000 numbers) are allocated to, and therefore associated with, a given switch or carrier. Thousands-block number pooling requires modifying the association between an NPA-NXX and the service provider for the purpose of routing calls. n413 Once the association between the NPA-NXX code and the service provider is modified for purposes of call routing, an alternative to using the first six digits of the called number to route the call must be found.

n411 *See supra* P118.

n412 *Id.*

n413 Historically, geographic numbers are assigned on an NXX code basis and associated with a specific switch and the network address to which the call must be routed is embedded in the first six digits (NPA-NXX) of the called number. With thousands-block number pooling, all 10,000 numbers available in the NXX code are allocated within one rate center, but are allocated to multiple service providers in thousand number blocks, instead of to one particular service provider. Therefore, with thousands-block number pooling, participating carriers share resources from NXX codes rather than receiving an entire NXX code at a time. [**210]

173. Since the release of the *Pennsylvania Numbering Order*, the telecommunications industry has developed detailed guidelines governing the technical and administrative functioning of thousands-block number pooling. To implement thousands-block pooling, the industry has proposed employing the Intelligent Network/Advanced Intelligent Network (IN/AIN) system used for LNP.

174. The Committee-T1, sponsored by the Alliance for Telecommunications Industry Solutions (ATIS), has drafted detailed technical requirements (T1S1.6 Thousands-Block Number Pooling Technical Requirements) for thousands-block pooling. n414 The T1S1.6 Thousands-Block Pooling Technical Requirements address number pooling within an existing rate center within an NPA, utilizing the LRN method for LNP. n415 The T1S1.6 Thousands-Block Number Pooling [*7654] Technical Requirements also define the Switching System, Number Portability Database, and other requirements for thousands-block number pooling in LNP-capable wireline networks. n416 Moreover, the T1S1.6 Thousands-Block Number Pooling Technical Requirements describe the network prerequisites that must be met for thousands-block number pooling to function properly, [**211] n417 thousands-block number pooling technical requirements, and network impacts of thousands-block number pooling. n418

n414 *See infra* P181.

n415 *See* T1S1.6 Thousands-Block Number Pooling Technical Requirements at 1.

n416 *Id.* at i.

n417 *See id.* at 2-3.

n418 *See generally* T1S1.6 Thousands-Block Number Pooling Technical Requirements.

175. As stated above, an LRN is a unique ten-digit number assigned to each central office switch to identify each Point of Interconnection in the network for call routing purposes. n419 The LRN then serves as a network address. The first six digits of the LRN (*i.e.*, the NPA-NXX) are used to route calls to numbers that have been ported. n420 A number is ported when a carrier other than the carrier assigned the NPA-NXX associates its LRN with the phone number for routing purposes, and this same carrier is responsible for terminating the call to the ported number. When an individual telephone number is ported, a record associating the ported number with the LRN of the appropriate service provider's switch is created and stored in the former carrier's LNP SCP database, via downloads from the local Service Management [**212] System (SMS). n421 Any service provider routing a call to the ported number would do so by querying the database to determine the LRN that corresponds to the dialed telephone number, and routing the call to the switch identified by that LRN. The LRN architecture, therefore, provides a practical alternative to using the first six digits of the called number to route the call. n422

n419 *See generally* ATIS INC Location Routing Number Assignment Practices at 2 (July 13, 1998). INC documents are available at <http://www.atis.org>. The INC, sponsored by ATIS, has detailed the criteria to be considered when a service provider selects and assigns an LRN. *Id. See also* Telephone Number Portability, *Second Report and Order, 12 FCC Rcd at 12287.*

n420 ATIS INC Location Routing Number Assignment Practices at 2 (July 13, 1998). As discussed above, telephone numbers in the United States are composed of a 3-digit numbering plan area code (NPA), a 3-digit central office code (NXX), and a 4-digit line number.

n421 An SMS is a database or computer system not part of the public switched network that, among other things: (1) interconnects to an SCP and sends to that SCP the information and call processing instructions needed for a network switch to process and complete a telephone call; and (2) provides telecommunications carriers with the capability of entering and storing data regarding the processing and completing of a telephone

call. *Telephone Number Portability First Report and Order, 11 FCC Rcd at 8402 n.288.* Typically, the information contained in an SCP is obtained from the SMS. *Id.* [**213]

n422 *See* INC Number Pooling Report at § 5.1.

176. The LRN database structure can be used to route calls to customers who have been assigned telephone numbers from a pool, because, just like with ported numbers, the NPA-NXX of a pooled number no longer necessarily indicates the switch or service provider associated with the service. To facilitate call routing when LRN LNP is utilized for number [*7655] pooling, the entire population of pooled numbers in the pooling area, and associated LRNs, must be stored in all of the LNP SCP databases that service providers use to store LRN information for numbers ported from their networks. n423 Thus, thousands-block number pooling can only be implemented where LRN LNP has been deployed.

n423 *See* NANC Report at § 5.6.1; *see also* INC Number Pooling Report at § 5.3.

177. When a number is ported, carriers must utilize software in the NPAC system to download and store the telephone number and associated LRN. Thousands-block number pooling can be performed with NPAC Release 1.4, 2.0 or 3.0. n424 NPAC Release 1.4 is a customized software release for the Illinois pooling trial, n425 which stores data in carriers SCP database one [**214] record at a time. n426 NPAC Release 3.0, which is scheduled for testing by the NPAC in June 2000, and will be released to service providers in July 2000, includes efficient data representation (EDR). n427 EDR allows an LRN to be associated with a block of one thousand numbers as a single record. Because EDR allows one thousand numbers to be downloaded and stored in a service provider's database as a single record, instead of one-thousand records, it is expected to significantly extend a carrier's SCP capacity for thousands-block number pooling.

n424 NeuStar, Response to Frequently Asked Questions Regarding Number Pooling, November 17, 1999, *available at* <http://www.nanpa.com>.

n425 NPAC Release 1.4 was specifically designed for the Mid-West Regional LLC's use in the 847 area code in Chicago, Illinois. Currently, Release 2.0 (with NPAC Release 1.4 capability) is available throughout the United States. *See* NeuStar, Response to Frequently Asked Questions Regarding Number Pooling, November 17, 1999, *available at* <http://www.nanpa.com>.

n426 NeuStar, Response to Frequently Asked Questions Regarding Number Pooling, November 17, 1999, *available at* <http://www.nanpa.com>. [**215]

n427 According to NANPA, NPAC Release 3.0 has been authorized for use in all seven LLCs. *See* NeuStar, Response to Frequently Asked Questions Regarding Number Pooling, November 17, 1999, *available at* <http://www.nanpa.com>.

178. In the *Notice*, we sought comment on whether we should adopt the T1S1.6 proposed technical requirements for thousands-block number pooling as the standard for a national pooling architecture, or in the alternative, whether we should direct the NANC to recommend technical standards for thousands-block number pooling once such standards have been adopted by the American National Standards Institute (ANSI). n428 In addition, we sought comment on whether there are any technical issues with respect to thousands-block number pooling that have not been identified, such as potential impacts on private branch exchange equipment, or that remain to be resolved, and whether it is necessary for the Commission to direct or request resolution of these issues. n429

n428 *Notice, 14 FCC Rcd at 10400.*

n429 *Id.*

[*7656] 179. The INC has also drafted guidelines relating to the duties of the Pooling Administrator and entities [**216] requesting numbers from the Pooling Administrator. n430 The INC Pooling Guidelines propose an architecture in which a Pooling Administrator functions essentially as another carrier, requesting numbering resources from the NANP in order to maintain a sufficient inventory of thousands blocks for allocation to carriers within a rate area. n431 Carriers desiring blocks of numbers within a rate area request those blocks from the Pooling Administrator, rather than the NANPA. n432 Under these guidelines, numbering resources will be available for assignment from both contaminated and uncontaminated thousands blocks contained in the industry inventory pool. n433 Where thousands-block pooling has not been implemented, or is not in use by a service provider, the service provider must continue to apply directly to the CO Code Administrator for numbering resources. n434

n430 *See* Thousand Block Pooling Guidelines § 1.0.

n431 *Id.* at § § 5.0, 8.0.

n432 *Id.* at § § 5.3(a), 9.0.

n433 *Id.* at § 3.1.

n434 *See id.* at § 1.0. *See also*, CO Code Assignment Guidelines. Service providers requiring an entire NXX code (10,000 consecutive numbers) to satisfy a single customer request would obtain these numbers from the Pooling Administrator, not the CO Code Administrator. Thousand Block Pooling Guidelines at § 3.2. [**217]

180. In the *Notice*, we sought comment on whether this arrangement should be the model for thousands-block number pooling administration. n435 We also sought comment on whether this general method of administration satisfies parties that may be taking numbers in thousands blocks from a pool as well as those that continue to take whole NXXs. In particular, we asked whether this model sufficiently addresses concerns about the impartial administration of the numbering resource. n436

n435 *Notice, 14 FCC Rcd at 10401.*

n436 *Id. at 10401-02.*

b. Discussion

181. As we stated earlier, we believe that uniform technical requirements are essential for the successful rollout of thousands-block number pooling. In this regard, several parties recommend that we adopt the TIS1.6 Technical Requirements for Thousands-Block Number Pooling. n437 The TIS1.6 Technical Requirements provide a comprehensive and an informative reference of the technical requirements for thousands-block number pooling implementation in LNP-capable wireline networks. These requirements are the result of an extensive industry effort and represent a broad-based [**218] consensus of various industry segments. Therefore, we adopt the TIS1.6 Technical Requirements as the technical standard for a national thousands-block number pooling mechanism.

n437 *See* PrimeCo comments at 8; AT&T comments at 49; OPASTCO comments at 7; USTA comments at 10.

[*7657] 182. We agree with many service providers and the NANC that the inclusion of EDR in the pooling software used for thousands-block number pooling is critical for a nationwide pooling architecture. n438 Thousands-block number pooling requires carriers to modify significantly the manner in which they account for their inventory of telephone numbers, including changing their Operations Support Systems (OSSs) and retraining their staff. With a national thousands-block pooling rollout, we envision the porting of a large volume of thousands blocks. As stated above, we do not endorse at this time the adoption of NPAC 3.0 as the software for the national thousands-block number pooling architecture, but we believe that the incorporation of EDR in such software, or in thousands-block number pooling software developed by other entities with this EDR feature, is significant because it will reduce the strain [**219] on the network from the large volume of number porting that is likely to occur once thousands-block number pooling is implemented.

n438 *See* MCI WorldCom reply comments at 14 (stating that software with EDR will be a major advance over NPAC Release 1.4); SBC comments at 79 (noting that it is essential that all carriers implement EDR). *See also* NANC Meeting Minutes, June 23-24, 1998, at 5.

183. We also conclude that the nationwide implementation of thousands-block pooling requires detailed guidelines governing its administration. The INC has drafted detailed guidelines and specifications describing the procedures to be followed for the administration of thousand-block number pooling. n439 Several commenters support the INC Thousand Block Pooling Guidelines as the model for thousands-block number pooling administration. n440 Other parties, however, express concern about the industry drafting these guidelines and a possible competitive disadvantage to CLECs based on the premise that they are drafted to favor incumbent LECs. n441 Upon our review of the Thousand Block Pooling Guidelines, we believe that the administration model that the INC has articulated sufficiently addresses [**220] concerns about the neutral administration of the numbering resource. We also believe that this model does not discriminate between service providers that may be taking numbers in thousands blocks from a pool as well as those that continue to take whole NXX codes. We note that the INC Pooling Guidelines complement our choice of implementing a nationwide thousands-block number pooling rollout. We therefore direct the industry and the national Pooling Administrator to follow the INC Pooling Guidelines relating to the functioning of the Pooling Administrator and [*7658] entities requesting numbering resources from the Pooling Administrator. n442 We reserve the right, however, to direct the incorporation of modifications to the Guidelines as and when necessary. In addition, anything that we mandate in this or subsequent orders that alters the Thousand Block Pooling Guidelines, shall supersede the guidelines, and must be followed by the Pooling Administrator.

n439 The NANC recommended that the INC Thousand Block Pooling Guidelines be followed for the administration of thousands-block number pooling. *See* NANC Recommendation, Thousands Block Pooling Administration, Letter to Chief, Common Carrier Bureau, dated February 25, 2000. [**221]

n440 *See* AT&T comments at 50; Ameritech comments at 49; BellSouth comments at 8; USTA comments at 10.

n441 *See* Cox comments at 14 (stating that the industry position has largely been driven by the ILECs' desire to control numbering resources); MediaOne comments at 24 (generally supporting the draft Thousand Block Pooling Guidelines and their adoption as Commission rules, but concerned with the loss of thousands-blocks deemed lacking sufficient activity under the guidelines); North Carolina Commission comments at 15 (stating that voluntary industry guidelines have proven to be ineffective, in many instances, in giving numbering resource administrators the authority they need to appropriately administer number resources).

n442 We have considered the amendments to the Thousand Block Pooling Guidelines that were proposed by several states on January 20, 2000, and at this time, decline to adopt them. Therefore, state public utility commissions must follow the provisions of the Thousand Block Pooling Guidelines that we adopt in this *Report and Order*.

4. Public Safety Impacts

184. In the *Notice*, we solicited comment on whether the National Emergency Number [**222] Association (NENA)-recommended standards, as well as the TIS1.6 recommended restriction on the porting of E911 routing numbers, are sufficient to ensure the reliable provision of E911 service where thousands-block number pooling is implemented. n443 We sought this information because several commenters to the NANC Report expressed concern about thousands-block number pooling's impact on the provision of E911 services, and upgrades and changes to E911 systems if thousands-block number pooling is implemented. n444

n443 *Notice, 14 FCC Rcd at 10401.*

n444 *Id. at 10400-01.* In its Technical Requirements for Number Portability - Switching Systems, TIS1.6 recommends against the porting of routing numbers to which E911 calls are translated. This is because the call-back to a ported number is handled best whenever the call-back is over a dedicated trunk between the Public Safety Answering Point Switch and the originating switch. *See* ATIS TIS1.6 Working Group Technical Requirements for Number Portability - Switching Systems at 48.

185. In response to comments received from the NENA community regarding the potential problems [**223] with implementing thousands-block number pooling in a geographic area beyond the traditional rate center, n445 we conclude that each thousands block pool should be confined to a rate center, which denotes the smallest geographic area used to distinguish rate center boundaries. n446 Thus, each rate center would contain a separate pool of numbering resources. This architecture will allow the maintenance of current wireline call rating mechanisms associating an NXX with a particular geographic area (*i.e.*, rate center).

n445 *See, e.g.*, NENA comments at 2 (recommending number pooling within the traditional rate center as the approach that is the least disruptive to E911 systems); Illinois NENA reply comments at 2 (explaining that thousands-block number pooling, like LNP, can cause default routing problems if the rate center involves more than one incumbent local service provider).

n446 *See* Thousand Block Pooling Guidelines at § 1.

186. Because thousands-block number pooling will be limited to the traditional rate center area, we do not envision widespread disruption to E911 service in this country. Moreover, we also note that the TIS1.6 did not specifically identify [**224] any impact on the provision of E911 service associated with the implementation of thousands-block number pooling in their Technical [*7659] Requirements for thousands-block number pooling. n447 We do, however, ask that routing numbers to which E911 calls are translated not be ported. n448 If the routing number to which the E-911 calls are translated is ported, we ask that a new 911-routing number be assigned to the recipient switch, if necessary. n449 Therefore, we conclude that the NENA-recommended standards, as well as the TIS1.6 recommended restriction on the porting of E911 routing numbers are sufficient to ensure the reliable provision of E911 service where thousands-block pooling is implemented.

n447 *See* TIS1.6 Thousands-Block Number Pooling Technical Requirements at § 5.0.

n448 *See* ATIS TIS1.6 Working Group Technical Requirements No. 2 for Number Portability - Switching Systems at 49.

n449 A routing number is a telephone number used to support routing of E911 calls.

187. Commenters also recommended that NeuStar's Interactive Voice Response (IVR) unit be implemented nationally to address telephone company identification problems. n450 IVR is a system that [**225] would enable a PSAP (public service access point) to access the NPAC data, which indicates what company owns each ported telephone number. Because of its potential impact on accessibility to telecommunications services, we decline to address the nationwide implementation of IVR in this *Report and Order.* We do, however, reserve the right to implement this requirement in future proceedings.

n450 APCO and NENA reply comments at 3; Illinois NENA reply comments at 5-6.

5. Administration

a. Inventory of Numbers

188. According to the Thousand Block Pooling Guidelines, the industry inventory is a reservoir of unallocated thousands blocks administered by the Pooling Administrator for purposes of assignment to certified service providers participating in thousands-block number pooling. n451 The service provider inventory is defined as the inventory of all geographic NANP telephone numbers distributed by the thousands-block number Pooling Administrator to a code or block holder and reported as assigned numbers. n452 In the *Notice*, we sought comment on whether a nine-month inventory of numbers in both the industry inventory and the service provider inventory, as proposed in [**226] the

Thousands Block Pooling Guidelines, is appropriate to assure adequate access to numbering resources, while avoiding potential waste of the resources by permitting numbers to lie unused for long periods of time. n453 According to the Guidelines, the Pooling Administrator would attempt to maintain thousands-blocks in the pool sufficient for a [*7660] nine-month inventory, n454 and each service provider would maintain sufficient resources within its individual inventory to last for nine months. n455

n451 *See* Thousand Block Pooling Guidelines at § 14.0.

n452 *Id.*

n453 *Notice, 14 FCC Rcd at 10405. See also*, Thousand Block Pooling Guidelines at § 8.0. The CO Code Assignment Certification Worksheet-TN Level (Months-to-Exhaust) requests data on telephone numbers available for assignment, growth history for the past 6 months, and projected demand for the coming 12 months.

n454 According to the Thousand Block Pooling Guidelines, the quantity of the thousands blocks in the industry inventory pool should be determined by the Pooling Administrator based upon: "(a) the number of SPs [Service Providers] participating in a given rate area; (b) the individual forecasts provided by each of the thousand block pooling participants; (c) the anticipated rate of assignment of the thousand blocks within the industry inventory pool; and (d) a minimum inventory of at least six months in the industry inventory pool at all times." *See* Thousand Block Pooling Guidelines at § 8.0. [**227]

n455 *See* Thousand Block Pooling Guidelines at § 9.3.4.

189. Inventory refers to all telephone numbers distributed, assigned, or allocated to a service provider, or to a Pooling Administrator for the purpose of establishing or maintaining a thousands-block number pool. We believe that a six-month inventory is appropriate and sufficient to assure adequate access to numbering resources, and will reduce the potential waste of unused numbering resources. Several commenters have suggested nonetheless that a nine-month inventory of numbers in both the industry inventory and service provider inventory is appropriate. n456 We are persuaded by this aspect of the states' proposed modifications to the INC Thousand Block Pooling Guidelines and, therefore, adopt a six-month inventory of numbers in both the industry inventory and service provider inventory. Many state public utility commissions have also taken steps in the context of state number pooling trials to avoid potential waste of numbering resources by requiring a maximum six-month inventory of numbers in both the industry inventory and service provider inventory. We also are persuaded by NeuStar's representation that as the thousands-block [**228] Pooling Administrator in the state thousands-block number pooling trials, it could maintain a six-month inventory of numbers in each pool. n457

n456 *See* Ameritech comments at 49 (stating that a nine-month inventory of numbers struck the proper balance between having a sufficient inventory of numbers to operate and waste of the numbering resource); AT&T comments at 53 (stating that carriers require at a minimum a six-month inventory of numbers to operate efficiently, and that a nine-month inventory could be reduced after carriers and the Pooling Administrator have more experience with the pooling process). *But see*, SBC comments at 80 (stating that a six-month inventory of numbers in both the industry inventory and service provider inventory is appropriate); Massachusetts Commission, Attachment A, Outline of State Response to Numbering NPRM at 15 (recommending a six-month inventory of numbers currently required under the guidelines for jeopardy situations).

n457 Letter from Leonard S. Sawicki, NeuStar, to Magalie Roman Salas, FCC, dated December 21, 1999.

b. Donation of Thousands-Blocks

190. As discussed in the *Notice*, the NANC Report and the INC Thousand Block [**229] Pooling Guidelines contemplate the donation of thousands-blocks already assigned to a service provider to the pool. n458 Both the NANC Report and INC Number Pooling Report recommend that carriers donate thousands-blocks with up to a ten percent threshold contamination level to a [*7661] pool within a rate center. n459 Contamination occurs when at least one telephone number is not available for assignment. In the *Notice*, we asked whether setting a ten percent contamination

threshold would harm a particular segment of the industry. n460 We also sought comment on MediaOne's proposal to set a twenty-five percent contamination threshold for ILECs and a ten percent threshold for CLECs to compensate for the perceived competitive advantage in favor of ILECs because of the ILECs' numbering resources resulting from their historical monopoly status. n461

n458 *See* NANC Report at § 5.7.3; *see also* Thousand Block Pooling Guidelines at § § 4.1, 8.2.4-8.2.8. Whereas donation refers to the process by which carriers are required to contribute telephone numbers to the thousands-block number pool, reclamation refers to the process by which service providers are required to return numbering resources to the NANPA or Pooling Administrator. [**230]

n459 *See* NANC Report at § 5.7.3; Thousand Block Pooling Guidelines at § § 4.1, 8.2.4-8.2.8. A "contaminated block" of numbers, in relation to thousands-block number pooling, refers to a block of 1,000 numbers, in which at least one telephone number is not "available" for assignment (*i.e.*, encompassing the categories of *assigned, aging, administrative, reserved*, and *intermediate*).

n460 *Notice, 14 FCC Rcd at 10403.*

n461 *Id. at 10404. See also* MediaOne comments at 23-24.

191. We conclude that we should adopt a uniform contamination threshold for all carriers to avoid a discriminatory impact on any particular segment of the telecommunications industry. n462 We decline to adopt the recommendations made by MediaOne and other carriers that different contamination thresholds should apply for each industry segment because of the potential competitive impact of such unequal treatment. n463 We also find that donation of thousand-blocks with up to a ten percent contamination threshold has the potential to add significant numbering resources in areas where thousands-block number pooling has been implemented. [**231] n464 Thus, consistent with the INC Thousand Block Pooling Guidelines, we require all carriers to donate all thousands-blocks that have a less than ten-percent contamination level to the thousands-block number pool for the rate center from which the numbering resources are assigned. n465 We clarify, however, that carriers participating in thousands-block number pooling will be allowed to retain at least one thousands-block per rate center, even if the thousands-block is less than ten percent contaminated, as an initial block or "footprint" block so that it may [*7662] provide service to its customers within the rate center. Carriers will also be allowed to retain a sufficient number of thousands-blocks to meet its six-month projection forecast. We also clarify that numbers assigned to customers from donated thousands-blocks that are contaminated will be ported back to the donating carrier to enable it to continue to provide service to those customers.

n462 *See, e.g.*, USTA comments at 10 (stating that contamination levels must be consistent for the various industry segments, otherwise any contamination level would be discriminatory).

n463 *See, e.g.*, RCN comments at 14 (stating that the contamination level for ILECs should be greater than the threshold imposed on CLECs to ensure that both classes of carriers are affected while still allowing for competitive growth). *But see* AT&T comments at 44 (arguing that carriers recommending higher contamination levels fail to take into account that more highly contaminated blocks would require significantly more administrative effort). In their comments, several state public utility commissions also agreed with a ten percent contamination level but emphasized that states should be given the flexibility of increasing this threshold depending on circumstances particular to that state. *See* California Commission comments at 35; Texas Commission comments at 37; Maine Commission comments at 25; Massachusetts Commission, Attachment A, Outline of State Response to Numbering NPRM at 15. [**232]

n464 *Notice, 14 FCC Rcd at 10403.*

n465 The Thousand Block Pooling Guidelines dictate the various responsibilities of the Block Holder and the Pooling Administrator with respect to the reclamation and return of thousands blocks under a thousands-block number pooling arrangement. *See* Thousand Block Pooling Guidelines § § 4.1, 8.2.4-8.2.8, 10.0.

6. Federal Cost Recovery Mechanism

192. Section 251(e)(2) requires that "the cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission." n466 Based on our conclusion in the *Notice* that thousands-block number pooling is a numbering administration function that is subject to the Commission's authority under section 251(e)(2), we sought comment on the appropriate distribution and recovery mechanism for thousands-block number pooling costs. n467

n466 *47 U.S.C. § 251*(e)(2).

n467 *Notice, 14 FCC Rcd at 10405-06.*

193. In this *Report and Order*, we adopt cost recovery principles [**233] that are similar to those established for number portability. n468 We conclude that the technical requirements of thousands-block number pooling and number portability are very similar, and thus, adopting different methods of cost recovery would create an unnecessary administrative burden on the carriers and the numbering administrator. For example, both number portability and thousands-block number pooling require the administrative services of a neutral third party to maintain the databases. Also, the thousands-block number Pooling Administrator will require updates from the number portability databases. In addition, the modifications to a carrier's network that are [*7663] necessary to implement thousands-block number pooling will involve the same, or similar hardware and software modifications that were required to implement number portability, thus creating the same or similar types of costs. Moreover, in the *LNP Third Report and Order* we noted that number portability would facilitate thousands-block number pooling to help forestall telephone number exhaust. n469

n468 Many parties recommend that we follow the cost recovery approach we adopted in the number portability proceeding. *See* Ameritech comments at 51; AT&T comments at 54-55; Bell Atlantic comments at 33-34; BellSouth comments at 25; MCI WorldCom comments at 53; Qwest Communications comments at 10-12; U S WEST comments at 25-26. In the *LNP Third Report and Order* and *Cost Classification Order*, we established rules governing long-term number portability cost recovery. Telephone Number Portability, *Third Report and Order, 13 FCC Rcd 11701 (1998)* (*Telephone Number Portability Third Report and Order*); Telephone Number Portability Cost Classification Proceeding, *Memorandum Opinion and Order, 13 FCC Rcd 24495 (1998)* (*Cost Classification Order*). We concluded that section 251(e)(2) authorizes the Commission to ensure that carriers bear the costs of providing long-term number portability on a competitively neutral basis for both interstate and intrastate calls. *Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11719; Cost Classification Order, 13 FCC Rcd at 24496.* We further concluded that an exclusively federal recovery mechanism for long-term number portability will enable the Commission to satisfy most directly its competitive neutrality mandate and will minimize the administrative and enforcement difficulties that might arise were jurisdiction over number portability divided. Under the exclusively federal cost recovery mechanism, the number portability costs incurred by incumbent LECs are not subject to jurisdictional separations. *Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11719.* In the *Telephone Number Portability Third Report and Order*, we further concluded that the costs of number portability that carriers must bear on a competitively neutral basis include the costs that LECs incur to meet obligations imposed by section 251(b)(2), as well as the costs other telecommunications carriers, such as IXCs and CMRS providers, incur for the industry-wide solution to providing number portability. *Id. at 11719-20.* We also concluded that section 251(e)(2) applies to any distribution of number portability costs among carriers as well as the recovery of those costs by carriers. *Id. at 11724-25.* [**234]

n469 *Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11774.*

194. We establish a competitively neutral federal cost recovery frame work for thousands-block number pooling. In this regard, we adopt three categories of thousands-block number pooling costs and determine how those costs should be allocated in each category. We, however, do not establish a cost recovery mechanism in this *Report and Order* for shared industry and carrier-specific costs directly related to thousands-block number pooling because the record does not contain adequate information regarding the range and magnitude of incremental costs that carriers will incur to implement thousands-block number pooling. Thus, any determination of an appropriate cost recovery mechanism without information regarding the amount and/or magnitude of incremental costs that are associated with thousands-block number pooling implementation would be speculative. For this reason, we also issue a *Further Notice* seeking comment on the shared industry and carrier-specific incremental costs of thousands-block number pooling and cost studies to quantify those incremental costs.

[**235] **a. Federal/State Jurisdiction**

195. In the *Notice*, we concluded that thousands-block number pooling is a numbering administration function and tentatively concluded that section 251(e)(2) of the Communications Act of 1934, as amended, authorizes the Commission to provide an exclusively federal distribution and recovery mechanism for both intrastate and interstate costs of thousands-block number pooling. n470 We further tentatively concluded that under an exclusively federal numbering administration cost recovery mechanism, the incumbent LECs' numbering administration costs, including costs associated with thousands-block number pooling, will not be subject to separations. n471

n470 *Notice, 14 FCC Rcd at 10405.*

n471 *Id. at 10406.*

196. We conclude that the costs of numbering administration, specifically the costs of thousands-block number pooling, will be recovered through an exclusively federal recovery mechanism. We agree with parties who maintain that the Commission has authority to provide an exclusively federal distribution and recovery mechanism for the intrastate and interstate costs of thousands-block [**236] number pooling. n472 We also believe that an exclusively federal cost recovery and distribution mechanism will further the policy goal of ensuring that numbering [*7664] administration costs are not in conflict with the pro-competitive goals of the Act. n473 In addition, an exclusively federal cost recovery mechanism for thousands-block number pooling will enable the Commission to satisfy most directly its competitively neutral mandate, and will minimize the administrative and enforcement difficulties that might arise if jurisdiction over numbering administration cost recovery were divided. We also note that no party has proposed a methodology which would ensure that numbering administration costs are recovered on a competitively neutral basis when carriers operate under different recovery mechanisms.

n472 Ameritech comments at 50; AT&T comments at 53; BellSouth comments at 25; MCI WorldCom comments at 50; New Jersey Commission comments at 7; Qwest comments at 11.

n473 *See* Ameritech comments at 50; AT&T comments at 53; BellSouth comments at 25; MCI WorldCom comments at 50; New Jersey Commission comments at 7; Qwest comments at 11.

197. We also adopt our tentative conclusion [**237] that the costs of thousands-block number pooling are not subject to separations under the exclusively federal cost recovery mechanism. As a federal cost recovery mechanism, the costs incurred are interstate costs, so there are no intrastate costs to be allocated to the state jurisdiction. Therefore, we will allow incumbent LECs to recover all their qualifying costs for thousands-block number pooling under the federal cost recovery mechanism we establish. We note, however, that the implementation and administration of national thousands-block number pooling will not be effective immediately. Until national thousands-block number pooling is implemented and a federal cost recovery mechanism authorized, states may use their current cost recovery mechanisms to ensure that the carriers recover the costs of thousands-block number pooling implementation and administration in the meanwhile. Costs incurred by carriers to implement state-mandated thousands-block number pooling are intrastate costs and should be attributed solely to the state jurisdiction.

b. Competitively Neutral Requirement

198. We tentatively concluded in the *Notice* that the plain language of section 251(e)(2) requires [**238] that the costs of thousands-block number pooling implementation be borne by all telecommunications carriers on a

competitively neutral basis. n474 We sought comment on whether the two-part test we adopted in the number portability proceeding to determine whether carriers should bear the costs of number portability on a competitively neutral basis is applicable to thousands-block number pooling. n475 Specifically, we tentatively concluded that the costs of thousands-block number pooling: (a) should not give one provider an appreciable, incremental cost advantage over another when competing for a specific subscriber; and (b) should not have a disparate effect on competing providers' abilities to earn a normal return. n476

n474 *Id. at 10406.*

n475 *Id. at 10406-07.*

n476 *Id.; see also Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11731-32.*

199. We apply the two-part test we established in the *LNP Third Report and Order* to determine whether the carriers' costs are borne on a competitively neutral basis. In that order, we concluded that section 251(e)(2) requires [**239] us to ensure that the costs of number portability do not affect the ability of carriers to compete and to attract subscribers. n477 We applied the "normal [*7665] return" prong of the test to all carriers, not just carriers that compete for end-user customers. n478 Several commenters support the application of the two-part test to determine whether carriers should bear the costs of thousands-block number pooling, n479 and no party has demonstrated that this test would create an unreasonable or unjust result. Therefore, we conclude that the costs of numbering administration, including thousands-block number pooling, do not affect the ability of carriers to compete. As such, the costs of thousands-block number pooling: (a) should not give one provider an appreciable, incremental cost advantage over another when competing for a specific subscriber; and (b) should not have a disparate effect on competing providers' abilities to earn a normal return. Also, consistent with our position in the *LNP Third Report and Order*, we conclude that section 251(e)(2) does not exclude any class of carriers and that all telecommunications carriers must bear numbering administration costs on a competitively [**240] neutral basis. n480

n477 *Id. at 11732.*

n478 *Id.*

n479 Ameritech comments at 51; MCI WorldCom comments at 51-52; OPASTCO comments at 6; Qwest comments at 11; USTA reply comments at 19.

n480 *Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11731.* We note that the *Telephone Number Portability First Report and Order* interpreted the term "all telecommunications carriers" in section 251 to include any provider of telecommunications service. *Telephone Number Portability First Report and Order, 11 FCC Rcd at 8419.*

200. We also conclude that the competitive neutrality requirement does not require the Commission to ensure that carriers recover all of the costs expended for thousands-block number pooling implementation and administration. We note that neither the application of the two-part test to thousands-block number pooling costs nor our interpretation of section 251(e)(2) guarantees any particular return or requires the Commission to guarantee that carriers recover all their thousands-block number pooling costs. n481 Section 251(e)(2) requires that the [**241] Commission select a method of cost recovery that ensures that carriers bear the costs on a competitively neutral basis, in comparison with the way other carriers bear the same costs. In the *LNP First Report and Order*, the Commission stated that Congress's competitive neutrality mandate requires the Commission to depart from cost-causation principles when doing so is necessary to ensure "that the costs of number portability borne by each carrier do not affect significantly any carrier's ability to compete with other carriers for customers in the marketplace." n482

n481 *Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11732-33.*

n482 *Telephone Number Portability First Report and Order, 11 FCC Rcd at 8419.*

c. Cost Categories

201. In the *Notice*, we sought comment on three categories for recovery of thousands-block number pooling administration costs: (1) shared industry costs, costs incurred by the industry as a whole (including NANP administrator costs, and enhancements to the number portability regional database); (2) carrier-specific costs directly related to thousands-block number pooling [**242] implementation (such as enhancements to carriers' SCP, LSMS, SOA, and OSS [*7666] systems); and (3) carrier-specific costs not directly related to thousands-block number pooling administration. n483 The NANC also identified these cost categories as appropriate for thousands-block number pooling costs in its report. n484 In addition, we tentatively concluded that section 251(e)(2)'s competitively neutral requirement applies only to the allocation and recovery of shared industry costs and carrier-specific costs directly related to the implementation of thousands-block number pooling, not to carrier-specific costs not directly related to thousands-block number pooling. n485 Further, we sought comment on the tentative conclusion that because costs not directly related to providing thousands-block number pooling are not costs of thousands-block number pooling implementation, the Commission is not required to create special provisions for their recovery. n486

n483 *Notice, 14 FCC Rcd at 10407.*

n484 *See* NANC Report at § § 5.3.2.4, 5.3.2.7 -- 5.3.2.11, 5.3.2.13, 5.3.2.17, 5.6.1, 5.6.3 -- 5.6.4.

n485 *Notice, 14 FCC Rcd at 10408.* [**243]

n486 *Id.*

202. Furthermore, in the *LNP Third Report and Order*, we established definitions for the three cost categories described above as they applied to number portability cost recovery. We defined shared costs as "costs incurred by the industry as a whole, such as those incurred by the third-party administrator to build, operate, and maintain the databases needed to provide number portability." n487 Carrier-specific costs directly related to providing number portability were defined as costs carriers incur specifically in the provision of number portability services, such as for the querying of calls and the porting of telephone numbers from one carrier to another and considered, as subject to the competitive neutrality mandate of section 251(e)(2), all of a carrier's dedicated number portability costs, such as for number portability software and for the SCPs, and STPs reserved exclusively for number portability. n488 We also defined carrier-specific costs directly related to the provision of number portability as that portion of a carrier's joint costs that is demonstrably an incremental cost that carriers incur in the provision of long-term number portability. n489 [**244] Costs that carriers incur as an incidental consequence of number portability (Type 3), such as general network upgrades, were included in the definition of costs not directly related to the provision of number portability. n490

n487 *Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11739.*

n488 *Id. at 11740.*

n489 *Id.*

n490 *Id.*

203. We adopt the three categories of thousands-block numbering pooling costs that we proposed in the *Notice*. We note commenters generally support the adoption of these the three categories, but disagree as to the categories of costs the carriers should be allowed to [*7667] recover. n491 We find that the similarities between the costs that will be incurred to implement thousands-block number pooling and the costs that have been identified for number portability compel us to adopt the same three cost categories, and apply their definitions to the costs of thousands-block number pooling.

n491 Ameritech comments at 51; AT&T comments at 55; BellSouth comments at 25; MCI WorldCom comments at 52; MCI WorldCom reply comments at 28-29; New York Commission comments at 12; SBC comments at 90; U S West comments at 28. [**245]

204. We agree with US West and conclude that the costs resulting from the administration of thousands-block number pooling, specifically the costs incurred by the third party thousands-block number Pooling Administrator to build, operate and administer the database for thousands-block number pooling are shared industry costs. n492 Furthermore, as we decided with regard to number portability, we conclude that these costs will become carrier-specific costs once they are distributed among telecommunications carriers. n493 The method of allocating and recovering shared industry costs is discussed in detail below. n494

n492 U S West comments at 29.

n493 *Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11739. See* U S West comments at 29.

n494 *See infra* P207.

205. We further conclude that it is competitively neutral for carriers to recover the shared industry costs and carrier-specific costs directly related to thousands-block number pooling implementation. Finally, we adopt our tentative conclusion that carriers may not recover costs not directly related to providing thousands-block number pooling because these costs [**246] are not subject to the competitive neutrality requirement. n495

n495 *See* New York Commission comments at 12.

d. Allocation of Costs

206. *Shared Industry Costs*. We tentatively concluded in the *Notice* that the shared industry costs of thousands-block number pooling implementation and administration are should be allocated and recovered through the existing NANPA fund formula. n496 We also tentatively concluded that under section 251(e)(2), it is competitively neutral to allocate the shared industry costs of thousands-block number pooling implementation and administration among all telecommunications carriers in proportion to each carrier's intrastate, interstate, and international end-user telecommunications revenues. n497 The *Notice* further sought comment on whether the Commission has the authority to allocate the shared costs of thousands-block number pooling [*7668] through a per-number charge, based on the quantity of numbers held by a carrier, or only to those carriers that receive thousands-blocks of numbers. n498

n496 *Notice, 14 FCC Rcd at 10408; see also* 47 C.F.R. § 51.17 (all telecommunications carriers in the United States shall contribute on a competitively neutral basis to the costs of numbering administration). The NANPA fund formula represents the contribution factor established to determine the amount of each carrier's contribution, based on the carrier's end user revenues, for NANP administration. [**247]

n497 *Notice, 14 FCC Rcd at 10409.*

n498 *Id.*

207. We agree with parties stating that the distribution and recovery mechanism for the costs of thousands-block number pooling should be recovered from all classes of telecommunications carriers according to the NANPA formula. n499 We conclude that the allocation of shared industry costs only among the carriers that participate in thousands-block number pooling or through a per-number charge, based on the quantity of numbers held by a carrier, would not comply with the section 251(e)(2) requirement that all telecommunications carriers bear the cost of numbering administration on a competitively neutral basis. n500 In particular, we believe that such a mechanism would penalize new CLECs and other carriers, such as CMRS and paging carriers, that require large quantities of numbers to provide their services. n501 We further conclude that the costs of thousands-block number pooling be allocated to all telecommunications carriers in proportion to each carrier's interstate, intrastate, and international telecommunication end-user revenues. Allocation of thousands-block number pooling costs according [**248] to a carrier's interstate, intrastate, and international telecommunication end-user revenues is consistent with the established precedent for cost recovery for NANP administration using the NANPA formula, as well as our cost recovery mechanism for number

portability. We recently determined that carrier contributions to NANPA based on end-user telecommunications revenues satisfy the competitive neutrality requirements of section 251(e). n502 In addition, the shared costs for number portability are also collected by a neutral, third-party administrator based on allocations among carriers in proportion to their interstate, intrastate, and international telecommunication end-user revenues attributable to that region. n503 Similar to our number portability cost recovery rules, which require carriers that do not have sufficient end-user revenues to pay $ 100 per year per region as their statutory share of shared number pooling costs, we require that carriers that do not have sufficient end-user revenues shall pay a minimum of $ 100 per year per region as their share of thousands-block number pooling costs. n504 The record [*7669] in this proceeding does not provide a reason to depart [**249] from our established precedent in this area. Therefore, shared industry costs, along with the other carrier-specific costs directly related to thousands-block number pooling, will be subject to the carrier-specific cost recovery mechanism to be established in a separate order.

n499 AT&T comments at 53-55; Bell Atlantic comments at 34; BellSouth comments at 25; Joint Comments of ChoiceOne and GST at 7-8; Connect comments at 18; Cox comments at 16-17; MCI WorldCom comments at 54; SBC comments at 66; Texas Commission comments at 28.

n500 Ameritech comments at 51; AT&T comments at 58; Bell Atlantic comments at 34; BellSouth comments at 26; MCI WorldCom comments at 54.

n501 Ameritech comments at 51; AT&T comments at 58; Bell Atlantic comments at 34; BellSouth comments at 26; MCI WorldCom comments at 54.

n502 In the Matter of 1998 Biennial Regulatory Review -- Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, *Report and Order, 14 FCC Rcd 16602, 16631 (1999)* (*1998 Biennial Review Order*). [**250]

n503 *Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11754.*

n504 *Id. at 11759.*

208. *Carrier-specific costs directly related to thousands-number pooling.* In the *Notice*, we tentatively concluded that it is competitively neutral for carriers to bear and recover their own carrier-specific costs directly related to thousands-block number pooling implementation and administration. n505 These costs include costs associated with updates to carriers' networks (including LSMS, SCP, SOA, and OSS systems), as well as, each carrier's allocated portion of shared industry costs as discussed above.

n505 *Notice, 14 FCC Rcd. at 10409-10.*

209. We conclude that requiring carriers to bear and recover their own carrier-specific costs is consistent with the competitive neutrality requirements in section 251(e)(2). Several parties concur, although there is disagreement as to how the costs should be recovered. n506 We note that none of the parties support the alternative method that would add the carrier-specific costs to the shared industry costs and, then, allocate them through [**251] a revenue-based cost mechanism. A similar pooling-type method also was considered in the number portability proceeding, n507 but was rejected because of the following disadvantages: (1) carriers would have less incentive to minimize costs because they would not realize all the savings achieved by providing number portability more efficiently; (2) carriers would not be responsible for any increasing cost inefficiencies; and (3) the Commission would be required to impose significant cost accounting and distribution mechanisms on both regulated and previously unregulated carriers. n508 These disadvantages would also be present if the carrier-specific thousand-block number pooling costs were added to the shared industry costs and allocated according to revenue. Parties to this proceeding have not provided information to show us that this method is competitively neutral; therefore, we adopt our earlier conclusion that it is competitively neutral for carriers to bear and recover their own carrier-specific costs. We will address the issue of carrier-specific thousands-block number pooling cost recovery in detail in a subsequent order, but we establish the basic principles that apply to this [**252] category of costs below.

n506 AT&T comments at 55-56; Connect comments at 18; Cox comments at 16; MCI WordCom comments at 53.

n507 *Telephone Number Portability First Report and Order, 11 FCC Rcd at 8464; Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11764.*

n508 *Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11775-76.*

210. *Carrier-specific costs not directly related to thousands-block number pooling.* In the *Notice*, we tentatively concluded that carrier-specific costs not directly related to thousands-block pooling implementation should be borne by individual carriers as network upgrades and, as such, are not subject to the competitive neutrality requirements of section 251(e)(2). n509 We [*7670] sought comment on this conclusion and on alternative methods of recovering these costs. n510

n509 *Notice, 14 FCC Rcd. at 10411.*

n510 *Id.*

211. We conclude, with support from several parties, that carrier-specific costs not directly related to thousands-block pooling implementation are not subject [**253] to the competitive neutrality requirements in section 251(e)(2). n511 Thus, we find that each carrier should bear its carrier-specific costs not directly related to thousands-block number pooling implementation as network upgrades. n512 Commenters agree that carrier-specific costs not directly related to thousands-block pooling are not subject to the competitive neutrality requirements of section 251(e)(2) and carriers should bear those costs as network upgrades. We reached a similar conclusion regarding carrier-specific costs not directly related to number portability in the *LNP Third Report and Order*, recognizing that carriers may incur a wide range of costs to provide telecommunications functions that are only incidentally related to number portability. n513 The *LNP Third Report and Order* defined costs not directly related to number portability as costs carriers incur as an "incidental consequence of number portability." n514 We reject the argument offered by BellSouth and SBC that we should allow carriers to recover all of the implementation costs for thousands-block number pooling in all three cost categories, including costs not directly related to thousands-block number [**254] pooling. n515 We find that these costs are only incidentally related to thousands-block number pooling and the parties have not presented evidence to demonstrate that incidental costs of implementing number pooling should be recovered through a separate or special recovery mechanism. As such, we conclude that carriers are not allowed to recover carrier-specific costs not directly related to thousands-block number pooling implementation and administration through the cost recovery mechanism we establish in a separate order.

n511 MCI WorldCom comments at 53; New York Commission comments at 12; Texas Commission comments at 29.

n512 MCI WorldCom comments at 53; New York Commission comments at 12; Texas Commission comments at 29.

n513 *Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11724.*

n514 *Id. at 11740.*

n515 BellSouth comments at 25; SBC comments at 88.

e. Recovery of Shared Industry and Direct Carrier-Specific Costs

212. In the *Notice*, we tentatively concluded that incumbent LECs subject to rate-of-return or price cap regulation may not recover their interstate carrier-specific [**255] costs directly related to thousands-block number pooling through a federal charge assessed on end-users, but may recover the costs through other cost recovery mechanisms. n516 We requested detailed estimates of the costs of thousands-block number pooling and asked that commenters separate [*7671] the estimates by category of costs. n517 We also sought comment on the appropriate methodology for developing these and other cost estimates. n518

n516 *Notice, 14 FCC Rcd at 10410.*

n517 *Id. at 10407-08.*

n518 *Id.*

213. Several parties agree with the tentative conclusion that thousands-block number pooling costs should not be recovered through a federal charge assessed on end users, but should be recovered through access charges. n519 Some commenters recommend that price cap LECs should be allowed to treat thousands-block pooling number costs as exogenous cost adjustments or, alternatively, place the costs in a new or existing price cap basket. n520 Other parties, however, urge us to abandon our tentative conclusion because recovery through access charges would violate the competitive neutrality standard of section [**256] 251(e)(2). n521

n519 NECA comments at 2; New Hampshire Commission comments at 18; New York Commission comments at 12; Ohio Commission comments at 35.

n520 *See* Cox comments at 17; USTA comments at 11; U S West comments at 34 (stating that ongoing costs of number pooling should be recovered through an ongoing exogenous adjustment).

n521 MCI WorldCom comments at 53.

214. We find that the amount and detail of the data provided in response to our request is insufficient for us to determine the amount and/or magnitude of the costs associated with thousands-block number pooling. Without sufficient cost data, it is difficult for us to determine the appropriate cost recovery mechanism for these costs. We, therefore, find it necessary to request additional cost information prior to making a final decision on the appropriate method of cost recovery. We seek further comment and cost studies that quantify shared industry and direct carrier-specific costs of thousands-block number pooling. We also seek comment and cost studies that take into account the cost savings associated with thousands-block pooling in comparison to the current numbering practices that result in more frequent [**257] area code changes.

f. Identification of Costs

215. We believe that the implementation of thousands-block number pooling as a means of preventing number exhaust will result in certain cost efficiencies that do not inure to carriers under other methods (*e.g.*, area code splits and overlays, addition of another digit). We request that carriers determine their potential cost savings resulting from thousands-block number pooling by analyzing the avoided costs associated with thousands-block number pooling in comparison to the current practices that result in more frequent area code changes. The carriers also should include an analysis of the differences between the shared industry costs associated with thousands-block number pooling and the shared industry costs, if any, associated with the current practices that result in more frequent area code changes. The carriers should also exclude any thousands-block number pooling costs that they may have recovered through state implemented cost recovery mechanisms from this analysis. After determining their incremental costs of thousands-block number pooling, carriers should offset these costs by the [*7672] cost savings that result [**258] from thousands-block number pooling which prolongs lives of area codes and avoids frequent area code changes.

216. Carriers should provide cost studies that assign costs according to the three categories we have adopted in this order: (1) shared industry costs; (2) carrier-specific costs directly related to thousands-block pooling; and (3) carrier-specific costs not directly related to thousands-block number pooling. The cost studies should also distinguish the costs of providing number portability from the costs of implementing thousands-block number pooling. We find that the need to distinguish thousands-block number pooling costs from other network upgrades and network changes associated with number portability is heightened by the fact that the changes to the network for both thousands-block number pooling and number portability are similar. n522 Specifically, the same carriers that were required to update their networks to accommodate number portability are now required to make similar changes to implement thousands-block number pooling. Moreover, these carriers are also currently recovering number portability costs through a separate, number portability end-user charge. Under [**259] these circumstances, we find that it is equally as important to prevent the overrecovery of thousands-block number pooling and number portability costs as it is to prevent the recovery of costs that are not directly related to thousands-block number pooling.

n522 According to industry reports, number portability technology has extended the life of the North American Numbering Plan by allowing service providers to transfer and share telephone numbers between each other in blocks of 1,000 rather than 10,000-number blocks. *See* Ganek, *Leveraging LNP*, Telephony, February 7, 2000.

217. We note that there are some types of costs that are incidental to the implementation and administration of thousands-block number pooling, and, therefore, may not be eligible for recovery. In the *Cost Classification Order*, the Bureau directed the LECs to use the "but for" test as a method of identifying eligible number portability costs. n523 To demonstrate that costs are eligible for recovery through the federal number portability charges under the "but for" test, a carrier must show that the costs: "(1) would not have been incurred by the carrier 'but for' the implementation of number portability; [**260] *and* (2) were incurred 'for the provision of' number portability service. n524 The Bureau reasoned that, based on the *Third Report and Order* language that only incremental costs of number portability should be recovered through the federal number portability charges, this test was consistent with the Commission's narrow interpretation of "eligible number portability costs." n525 Costs that a carrier incurs for general network upgrades or to adapt other systems to the presence of number portability in the LECs' network were defined as costs not directly related to the provision of number portability. n526 The Bureau's goal was to prevent overcompensation of LECs for the costs of general network [*7673] upgrades that are already recovered through standard price caps and rate-of-return mechanisms. n527

n523 *Cost Classification Order, 13 FCC Rcd at 24500.*

n524 *Id.*

n525 *Id.*

n526 *Id. at 24501.*

n527 *Id. at 24500.*

218. We find that the "but for" test used in the number portability proceeding should also be used by carriers to identify carrier-specific costs directly [**261] related to thousands-block number pooling implementation and administration. Our goal in this proceeding is similar to the Bureau's goal in structuring the "but for" test to identify eligible costs of number portability--to prevent carriers from overrecovering both their number portability or thousands-block number pooling costs. We adopt, therefore, the two-part "but for" test described above as a method of identifying the costs that are directly related to thousands-block number pooling. Costs that both would not have been incurred by the carrier "but for" the implementation of thousands-block number pooling *and* were incurred "for the provision of" thousands-block number pooling are eligible for recovery and should be identified in the cost studies.

219. We note that in addition to meeting the requirements of the "but for" test, only new costs should be identified in the cost studies as carrier-specific costs directly related to thousands-block number pooling. n528 We find that it is reasonable to bar recovery of costs incurred by incumbent LECs prior to number pooling implementation and conclude that permitting embedded investments to be eligible thousands-block number pooling [**262] costs would permit recovery of costs that are already subject to recovery through standard mechanisms. In the number portability proceeding, we classified the carrier-specific costs directly related to number portability into three basic categories: (1) dedicated number portability costs; (2) joint costs of number portability; and, (3) incremental overheads. n529 These categories also apply to thousands-block number pooling costs and will assist carriers in identifying the costs that may be eligible for recovery.

n528 *Cf. Cost Classification Order, 13 FCC Rcd at 24502.*

n529 *See Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11740; Cost Classification Order, 13 FCC Rcd at 24504.*

220. *Dedicated Costs*. Dedicated thousands-block number pooling costs are the incremental costs of investments or expenses that are dedicated exclusively to the provision of thousands-block number pooling functions. These costs should be clearly identifiable since no allocation among services is necessary. Shared industry costs should be

considered dedicated thousands-block number pooling [**263] costs and included in eligible thousands-block number pooling costs. LECs should identify only those costs that are demonstrably incremental costs incurred in the implementation and administration of thousands-block number pooling since existing cost recovery mechanisms already provide for the recovery of embedded costs.

221. *Joint Costs*. Joint costs of thousands-block number pooling are incremental costs associated with new investments or expenses that directly support thousands-block number pooling and also support one or more non-number pooling functions. Our earlier number portability decisions are useful guidance in identifying this category of costs. We concluded in [*7674] the *LNP Third Report and Order* that an incumbent LEC may treat as directly related to number portability only the "portion of a carrier's joint costs that is demonstrably an incremental cost carriers incur in the provision of long-term number portability." n530 In the *Cost Classification Order*, the Bureau interpreted this language as requiring the LECs to subtract the cost of an item without the number portability functionality from the total costs of the item with the telephone number portability [**264] functionality. n531 We adopt, in the context of thousands-block number pooling, the Bureau's definition of joint costs for number portability and its interpretation of the *Third Report and Order's* requirement that an incumbent LEC may treat as directly related to number portability only the portion of a carrier's joint costs that is demonstrably an incremental cost incurred in the provision of number portability implementation. These costs as they relate to thousands-block number pooling should be included in the cost study.

n530 *Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11740.*

n531 *Cost Classification Order, 13 FCC Rcd at 24505.*

222. The definition of joint costs that we adopt in this proceeding means that carriers should recognize only a portion of the joint costs of software generics, hardware, and OSS, SS7, or AIN upgrades as carrier-specific costs directly related to thousands-block number pooling. Some of the costs associated with changes to these systems to enable number pooling have already been made by the incumbent LEC during the implementation of number portability, which [**265] the LECs are recovering through the number portability charges. Moreover, the additional modifications required to implement thousands-block number pooling may also provide a wide range of services and features that are unrelated to number pooling implementation and that are recoverable by the LECs in their rates for other services. Where an upgrade meets the two-part eligibility test and is not dedicated solely to thousands-block number pooling implementation, the LEC should make a special showing in its cost study to establish the eligible thousands-block number pooling costs associated with the upgrade.

223. *Incremental Overheads*. Many of the same principles discussed above regarding identifying direct and joint costs also apply to eligible overhead costs of thousands-block number pooling. We recognized in the number portability proceeding that LECs may incur overhead costs in conjunction with providing number portability and determined that carriers may recovery only those incremental overheads that they can demonstrate they incurred specifically in the provision of number portability. n532 The same rationale applies to thousands-block number pooling costs. We recognize that [**266] there are overhead costs associated with the implementation of thousands-block number pooling as a new function in the LECs' networks. However, only new overhead costs that were incurred specifically in the implementation of thousands-block number pooling should be identified in the cost information LECs provide in response to this request.

n532 *Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11740.*

224. The carriers should not include embedded overheads or use general overhead factors as part of the cost study. We noted with regard to number portability cost recovery that "carriers already allocate general overhead costs to their rates for other services, and allowing [*7675] general overhead loading factors . . . might lead to double recovery." n533 This language is instructive in this proceeding. LECs are not precluded, however, from applying *incremental* overhead allocation factors to identify the incremental portion of overhead costs directly related to thousands-block number pooling.

n533 *Id.* at 24509.

225. Carriers that apply an incremental overhead allocation factor must include a detailed explanation of the [**267] method used to calculate the factor as well as the method used to arrive at the estimated overhead amount. In support of the reasonableness of these incremental overhead cost allocations, LECs may be requested to supply to the Commission any special study performed by the LEC, a list of overhead allocation factors used by states in any UNE pricing decision, a list of all overhead allocations used in the LEC's other new service filings during 1998, 1999, and 2000, or three calendar years immediately preceding the LEC's filing, and a list of the incremental overhead factors filed by the LEC for number portability services, if necessary in the course of this proceeding.

226. Dedicated costs are associated with incremental investment exclusively related to thousands-block number pooling. Joint costs are associated with investments used to provide more than one service. As part of their cost study, LECs must provide a worksheet for dedicated and joint costs, as defined in this *Report and Order*, that includes the following information: (a) required thousands-block number pooling function and modification; (b) Part 32 account; (c) gross dollar investment; and (d) the percent assigned [**268] to non-number pooling services. LECs should state the methods used to assign that investment, *e.g.*, direct assignment or engineering studies. The thousands-block number pooling functions should include (as reported for each type of service): (a) shared industry costs; (b) service management system (SMS) signalling link; (c) signalling control point (SCP); (d) SCP link; (e) signalling transfer point (STP); (f) STP link; (g) signalling switching point (SSP); (h) end-office switches; (i) tandem switches; (j) operating support system (OSS) modifications for support of the narrowly defined number pooling implementation functions described above; and (k) OSS modifications supporting other functions that the LEC claims are for the implementation and administration of thousands-block number pooling. LECs also should include information in the worksheet that shows the cumulative cost savings resulting from thousands-block number pooling implementation compared to the current practices that result in more frequent area code changes, as well as the cost savings associated with each specific category or function outlined on the worksheet. The worksheet should exclude any costs the LECs may [**269] have recovered through state thousands-block number pooling cost recovery mechanisms. Finally, LECs should include other functions or subcategories of information that would assist us in our review of the costs that are being claimed.

V. OTHER POTENTIAL POOLING MECHANISMS

227. Individual telephone number (ITN) pooling and unassigned number porting (UNP) are variations on thousands-block number pooling and involve the allocation of individual telephone numbers within the same NXX to different service providers, and possibly different switches, within the same rate center. Generally, ITN pooling is the same as thousands-block [*7676] number pooling, only at a more granular level, while UNP is a self-help strategy that allows carriers with numbering resources to make them available to carriers that are short of numbering resources. As with thousands-block number pooling, all 10,000 available numbers in an NXX code are allocated within one rate center, but individual telephone numbers may be allocated to different service providers. With ITN pooling, allocations would be accomplished via a third-party administrator, to coordinate the allocation of individual numbers to a particular [**270] service provider with the NPAC. With UNP, however, allocation of individual telephone numbers generally would be accomplished between service providers by using established LNP porting mechanisms, and would not involve a third-party administrator.

228. In the *Notice*, we tentatively concluded not to pursue ITN pooling at this time because the development of technical standards and administrative guidelines for this methodology are in their early stages. n534 Nevertheless, we recognized that ITN appears to offer the greatest potential for eliminating, or nearly eliminating, "stranded" numbers, and stated our support for further study on its use as a numbering resource optimization measure. n535 Moreover, we also sought comment on the associated costs and benefits of migrating from a thousands-block pooling regime to an ITN pooling regime. n536 With regard to UNP, we sought comment on whether we should allow carriers to port unassigned numbers among themselves, and in particular, whether this practice could result in call-routing problems and public safety concerns. n537 In addition, we sought comment on whether state commissions should make the determination to allow carriers to [**271] use UNP in a given area. n538 We further sought comment on whether UNP can be used simultaneously with thousands-block pooling, or whether special conditions must be met for the two measures to coexist. n539

n534 *Notice, 14 FCC Rcd at 10384.* The NANC Report estimated a four to six year implementation timeframe for ITN pooling after the release of a regulatory order. NANC Report at § 4.3.

n535 *Id. at 10412-13.*

n536 *Id. at 10413.*

n537 *Id. at 10385.*

n538 *Id.*

n539 *Id. at 10413.*

229. In our orders considering state petitions for delegations of authority to implement ITN and UNP, we declined to grant state commissions the authority to implement these two optimization measures. n540 Our determination in this regard was based on the lack of final technical and administrative standards for both these methodologies and the potential for disruptions in carrier systems. n541

n540 *See, e.g. Massachusetts Delegation Order, 14 FCC Rcd at 17464-65; Wisconsin Delegation Order* at PP26-27. [**272]

n541 *Id.*

[*7677] 230. We reiterate our finding that UNP and ITN are not yet sufficiently developed for adoption as nationwide numbering resource optimization measures and conclude that ITN and UNP should not be mandated at this time. n542 We also remain concerned with the impact of UNP on carriers' ability to control their own number inventories and forecast future numbering needs. n543 We are also concerned with UNP's and ITN's potential impact on companies' switching systems and OSSs mapping logic, if these methodologies lead to significant number porting. n544 Furthermore, we are concerned that implementing UNP now might complicate the effort to move to thousands-block pooling, and carriers' efforts to preserve uncontaminated, or minimally contaminated, blocks of numbers may be undermined. n545 For the aforementioned reasons, we also decline to delegate to state commissions authority to order UNP and ITN in their states.

n542 *Notice, 14 FCC Rcd at 10384. See also Massachusetts Delegation Order. 14 FCC Rcd at 17464-65.* Several commenters, however, disagree and maintain that we should pursue ITN as our principal numbering resource optimization strategy because of its potential to allocate numbers more efficiently than thousands-block number pooling. *See* MediaOne comments at 29; Colorado Commission comments at 4; Small Business Alliance comments at 10; Maine Commission comments at 23; Minnesota Commission comments at 14; Massachusetts Commission comments at 11. [**273]

n543 Ameritech comments at 47; Bell Atlantic comments at 24; CinBell comments at 11; GTE comments at 41-42; Ohio Commission comments at 31; SBC reply comments at 26; WinStar reply comments at 14.

n544 NANC Report at § 6.6.3. UNP and ITN may cause problems with switches that can only accept a limited number of NXX codes, as number inventories will be increasingly composed of random telephone numbers from many different NXX codes. The NANC Report also indicates that many companies' OSSs are designed to accommodate large inventories of telephone numbers, linking each street address to an NPA/NXX combination. *See* NANC Report at § 6.6.4.1. *See also* Nextel comments at 17-19; U S West comments at 16-17; Nextlink reply comments at 13-14; Ameritech comments at 46; AT&T comments at 41, n.92.

n545 WinStar comments at 22; GTE comments at 41; SBC reply comments at 26.

231. We permit carriers, however, to engage voluntarily in UNP where it is mutually agreeable and where no public safety or network reliability concerns have been identified. Despite arguments raised by parties that even voluntary UNP arrangements will skew utilization forecasting and impact SCP capacity, n546 [**274] we conclude that the volume of ported numbers will not likely be high enough to affect carriers' inventories and SCP capacity appreciably. Furthermore, we encourage the states, the National Association of Regulatory Utility Commissioners (NARUC), NANC and INC to continue to study ITN and UNP and forward their recommendations to us by January 1, 2001. We remain

interested in the possibility of implementing either of these pooling methodologies as part of the national numbering resource optimization strategy if they are shown to have sufficient promise and feasibility.

n546 BellSouth comments at 13; AdHoc comments at 10; SBC comments at 92.

[*7678] **VI. OTHER ISSUES**

A. Reclamation of Numbering Resources

a. Background

232. The CO Code Assignment Guidelines provide that carriers shall activate NXXs within six months of the "initially published effective date" or the NXXs become subject to reclamation. n547 The NANPA currently recovers NXX blocks pursuant to the requirements set forth in CO Code Assignment Guidelines. n548 As discussed in the *Notice*, the NANC Report notes, however that there has been "some hesitancy" on the part of the NANPA to initiate reclamation [**275] of NXXs not activated within the requisite time period, and recommend a current review and modification of the NXX code reclamation procedure to address the current competitive status of the industry. n549 In the *Notice*, we sought comment on several proposals to clarify and strengthen these reclamation procedures.

n547 *See* CO Code Assignment Guidelines at § 6.3.3 and § 8.0.

n548 Reclamation refers to the process by which service providers are required to return numbering resources to the NANPA or Pooling Administrator. Donation, on the other hand, refers to the process by which carriers are required to contribute telephone numbers to the thousands-block number pool.

n549 *Notice, 14 FCC Rcd at 10363. See also*, NANC Report at § 11.6.

233. Under the CO Code Assignment Guidelines, an NXX code is considered to be "in service" when the assignee has transmitted local routing information to the LERG. n550 The CO Code Assignment Guidelines require an NXX assignee to activate n551 the NXX code by placing it "in service" within six months of assignment. n552 The carrier, however, does not have to assign and activate any number from the block [**276] to end-user customers in order to satisfy the activation requirement. n553 Certification of "in service" status is mandatory through completion of the Central Office Code (NXX) Assignment Request and Confirmation Form - Part 4. n554 [*7679] Furthermore, an assignee may apply to the NANPA for an extension of up to an additional ninety days to place the NXX code in service. n555 The CO Code Assignment Guidelines also allow an assignee to reserve an NXX code for up to eighteen months. n556 In addition, an assignee of a reserved NXX code is eligible to receive a single six-month extension of the reservation if it is able to demonstrate that the proposed code use date was missed due to circumstances beyond its control. n557

n550 *See* CO Code Assignment Guidelines at § 13.0.

n551 A code is activated when it is assigned by the CO Code Administrator and implemented in the PSTN for specific routing and rating requirements as of the LERG effective date. *See* CO Code Assignment Guidelines at § 13.0.

n552 *See* CO Code Assignment Guidelines at § 6.3.3. Because it takes 66 days to process a request for an NXX code, the guidelines state that applicants should request effective dates that are at least 66 days after the date of the receipt of the code request. CO Code Assignment Guidelines at § 6.1.2. [**277]

n553 CO Code Assignment Guidelines at § 6.1.2.

n554 CO Code Assignment Guidelines at § 6.3.3. Under the CO Code Assignment Guidelines, carriers are obligated to submit to the NANPA within six months of the requested effective date of newly obtained NXX codes a Part 4 certification that the code has been placed in service. *See* CO Code Assignment Guidelines NXX

Assignment Request Form, Part 4. According to the NANPA, when a Part 4 is not received within within six months, the CO Code assignees are notified, by letter, that a Part 4 is due to the CO Code Administrator within six months of assignment of the CO Code. *See* NANPA comments at 7. If the Part 4 certification is not received within two weeks following notification, a registered letter is sent to the service provider requesting a response within 30 days that either confirms activation or returns the NXX code. *Id.*

n555 CO Code Assignment Guidelines at § 8.1 and 8.2.3. An extension request of this type must include the reason for the delay and a new activation time commitment. *Id.* at § 8.1. The NANPA may extend the activation deadline if it determines that the reason for non-activation is not within the control of the code assignee. CO Code Assignment Guidelines at § 8.2.3. [**278]

n556 CO Code Assignment Guidelines at § 4.4. The applicant must demonstrate that the reservation of the code is essential to accommodate technical or planning constraints or pending regulatory approval of a tariff, certification, or registration. *Id.*

n557 CO Code Assignment Guidelines at § 4.4.

234. The CO Code Assignment Guidelines also contain provisions for NXX block reclamation. The CO Code Assignment Guidelines require the assignee to return an NXX code to the NANPA if it has not been activated within six months of assignment, if the assignee no longer requires that NXX code for the purpose it was originally assigned, or if the service for which it was assigned is disconnected. n558 Moreover, the CO Code Assignment Guidelines direct the NANPA to initiate reclamation action if the NXX code has not been activated within eighteen months. n559 The CO Code Assignment Guidelines direct the NANPA to refer to the INC for resolution in certain instances where NXX codes have not been returned for reassignment by the assignee, n560 as well as certain applications for extension of the NXX code activation date. n561

n558 CO Code Assignment Guidelines at § § 8.1 and 6.3.3.

n559 CO Code Assignment Guidelines at § 5.2.9. This translates to a one-year gap between the expiration of an NXX assignee's code activation deadline and the commencement of reclamation action by the NANPA. [**279]

n560 Specifically, the NANPA is to refer to the INC instances where an NXX code has not been activated within the six-month timeframe, where a previously activated code is not now in use, and where an activated code is not being used in accordance with the guidelines. CO Code Assignment Guidelines at § 8.2.2.

n561 Specifically, the NANPA is to refer to the INC instances where: 1) activation has not occurred within the 90-day extension; 2) the administrator believes that the activation has not occurred due to a reason within the assignee's control; or 3) the assignee requests an extension in excess of 90 days. CO Code Assignment Guidelines at § 8.2.2. When the INC is unable to reach a consensus resolution or the assignee refuses to comply with the resolution, the CO Code Guidelines direct the INC to refer the case to the appropriate regulatory authority. *Id.* at § 8.3.

235. In the *Notice*, we sought comment on whether the definition of placing an NXX code "in service" should be clarified to mean not just activation of the code through the [*7680] transmission of local routing information to the LERG, but also that the carrier has begun to activate and assign to end [**280] users numbers within the NXX code. n562 We tentatively concluded that modifying the current reclamation provisions by requiring the NANPA to initiate NXX code reclamation within sixty days of expiration of the assignee's applicable activation deadline would limit the length of time that an NXX code has been left idle and encourage better recycling of unused NXX codes. n563 Furthermore, we sought comment on whether we should consider any other modifications to the reclamation provisions to improve their enforceability, such as maintaining firm deadlines for activation by removing the discretion the NANPA currently has to determine the length of an extension. n564 Finally, we sought comment on whether we should

direct the INC to incorporate these proposed changes into the CO Code Assignment Guidelines, or whether we should adopt these proposals as FCC rules. n565

n562 *Notice, 14 FCC Rcd at 10365.*

n563 *Id. at 10366.*

n564 *Id.*

n565 *Id.*

236. In addition, we tentatively concluded that we should delegate additional authority to state public utility commissions to order NXX block reclamation in accordance [**281] with the CO Code Assignment Guidelines, and any changes thereto adopted during the course of this proceeding. n566 We also sought comment on what, if any additional authority we should delegate to the NANPA to enforce the NXX block reclamation provisions. n567

n566 *Id.*

n567 *Id.*

b. Discussion

237. We grant authority to the state commissions to investigate and determine whether code holders have "activated" NXXs assigned to them within the time frames specified in this proceeding. n568 Thus, a state commission may request proof from all code holders that NXX codes have been activated and assignment of the numbers has commenced. We further direct the NANPA to abide by the state commission's determination to reclaim an NXX code if the state commission is satisfied that the code holder has not activated the code within the time specified by this *Report and Order*. We believe that this grant of authority may increase the effectiveness of numbering conservation measures adopted by the states. n569 Reclamation and reuse of unused NXX blocks is a numbering optimization measure that may be one of the quickest and easiest measures to implement. Reclaiming NXX codes that [**282] are not in use may serve to prolong the life [*7681] of an area code because these codes are added to the total inventory of assignable NXX codes in the area code. Although most commenters support the reclamation of unused codes, n570 those opposed to it are not necessarily opposed to reclaiming unused codes in general, but rather assert that the NANPA should be responsible for reclamation activities. n571 We believe, however, that state commissions may be able to resolve such issues more quickly and decisively than an industry consensus process. We note that if state commissions do not make decisions on NXX reclamation, the Commission, under its exclusive jurisdiction over numbering, can order the NANPA to be responsible for reclamation activities. In such instances, the NANPA should consult with the Commission before conducting this activity.

n568 *See* Texas Commission comments at 18-19; New York Commission comments at 8. *But see*, Ameritech comments at 26-28 (arguing that specific proposals to add new reclamation guidelines or modify existing ones are best developed through the industry fora process).

n569 *Id.*

n570 *See, e.g.*, BellSouth comments at 8; Florida Commission comments at 2; Ohio Commission comments at 24; Small Business Alliance comments at 7; Wisconsin Commission comments at 4. [**283]

n571 *See, e.g.*, ALTS comments at 18; Ameritech comments at 27; AT&T comments at 30-31; SBC Comments at 63-64.

238. Similarly, we give the same authority to the states to direct the Pooling Administrator in state pooling trials, as well as the national Pooling Administrator once national thousands-block number pooling has been established, to reclaim unactivated or unused thousands-blocks. If state commissions decline to make decisions on NXX or thousands-block reclamation, the Commission, under its exclusive jurisdiction over numbering, can order the NANPA, or the

Pooling Administrator where thousands-block number pooling is in place, to be responsible for reclamation activities. In such instances, the NANPA or the Pooling Administrator should reclaim unused numbering resources in accordance with the reclamation procedures prescribed herein.

239. We clarify that the state commissions need not follow the reclamation procedures set forth in the CO Code Assignment Guidelines relating to referring the issue to the INC, as long as the state commission accords the code holder an opportunity to explain the circumstances causing the delay in activating NXX codes. n572 This authority [**284] is consistent with the delegations of authority granted to several state commissions. We believe that the CO Code Assignment Guidelines dictate substantial procedural hurdles prior to reclaiming an unused NXX, in part to afford the code holder an opportunity to explain the circumstances that may have led to a delay in code activation. n573 New entrants, in particular, may suffer unexpected delays or scheduling setbacks beyond their control, which could lead to code activation delays. n574

n572 *See, e.g.*, New York Commission comments at 8 (noting that the current CO Code Assignment Guidelines that require referring non-compliance to the INC for resolution is cumbersome and time consuming).

n573 For example, the CO Code Assignment Guidelines dictate that the CO Code Administrator must refer to the INC for resolution regarding any matter relating to an NXX code that has not been activated within the timeframe specified in the guidelines. CO Code Assignment Guidelines at § 8.2.2. The INC must then investigate the referral and attempt to resolve the referral. CO Code Assignment Guidelines at § 8.3. Absent consensus resolution, the matter is then referred to the "appropriate regulatory body" for resolution. *Id.* [**285]

n574 *See* Level 3 comments at 10 (stating that there are many factors outside the new entrants' control which may delay its ability to provide service); MediaOne comments at 12 (stating that where the delay is outside of the control of the NXX-holding carrier, the carrier should have the ability to retain its codes so long as it can show that it will use them in a reasonable period).

[*7682] 240. In addition, we conclude that the definition of placing an NXX code "in service" should be clarified to mean not just activation of the code through transmission of the local routing information to the LERG, but also that the carrier has begun to activate and assign to end users numbers within the NXX code. n575 We find that the current definition of "in service" in the CO Code Assignment Guidelines does not require that the carrier has begun to activate and assign to end users numbers within the NXX code. We believe that this clarification will better ensure that NXX codes are not left idle for a lengthy period. n576 We also note that this clarification will help to ensure that numbers are actually in use and not merely "in service" for an indefinite period of time. n577

n575 *See* CinBell comments at 7; MediaOne comments at 16; North Carolina Commission comments at 9; SBC comments at 43; Small Business Alliance comments at 21; VoiceStream comments at 21. [**286]

n576 *Notice, 14 FCC Rcd at 10365.*

n577 *See* New York Commission comments at 8.

241. We also adopt our tentative conclusion to require the initiation of reclamation action within sixty days of expiration of the assignee's applicable activation deadline, instead of the current 18-month timeframe in the Co Code Assignment Guidelines. n578 We believe, therefore, that requiring the NANPA to initiate NXX code reclamation within sixty days of expiration of the assignee's applicable activation deadline should increase the availability of numbers. We note that this modification will conserve numbering resources by limiting the length of time that an NXX code has been left idle. Moreover, a protracted reclamation interval enables misuse of numbering resources by allowing code assignees to hold their numbers. n579 We adopt the above-mentioned changes to the CO Code Assignment Guidelines as FCC rules. n580 We note that the reclamation provisions set forth in this *Report and Order* are subject to a carrier's ability to maintain a six-month inventory of numbering resources. n581

n578 Several commenting parties support our tentative conclusion. *See* Connecticut Commission comments at 6; MediaOne comments at 15; New York Commission comments at 8; North Carolina Commission comments at 10; SBC comments at 66; VoiceStream comments at 22. *But see* ALTS comments at 17 (supporting some reduction in the current reclamation provisions but stating that 60 days is too short to accommodate unavoidable delays in activating NXX codes). [**287]

n579 *See* VoiceStream comments at 22.

n580 *See* Appendix A.

n581 *See supra* PP188-89

[*7683] **B. Sequential Number Assignment**

a. Background

242. The INC Thousand Block Pooling Administration Guidelines state that, prior to the pooling implementation date, carriers are to protect thousands blocks that are less than 10% contaminated. n582 Moreover, the Thousand Block Pooling Guidelines state that thousands-block number pooling applicants requesting resources from the industry inventory pool "should attempt to assign TNs [telephone numbers] out of a given thousand block before making assignment out of another thousand block." n583 We sought comment in the *Notice* on whether we should order some form of sequential number assignment prior to the implementation of pooling. n584 Specifically, we envisioned the adoption of a strict sequential number assignment requirement that would require carriers to assign numbers within individual thousands blocks sequentially, and except where necessary to specific customer needs, to fill or substantially fill each thousands block before beginning to assign numbers from another block. n585 We also asked whether sequential [**288] number assignment should be limited to those areas in which pooling would be required within a certain amount of time and whether non-LNP-capable carriers should be required to assign numbers sequentially in anticipation of a pooling mandate at some future time. n586 In addition, we sought comment on whether the decision to require sequential number assignment should be left to state commissions, and whether there existed any consistency concerns that would be better addressed by adoption of a nationwide standard. n587 We further asked whether we should adopt any exceptions to a general requirement of sequential number assignment to permit a service provider to meet the needs of a large customer or respond to other types of customer requests or needs. n588 Moreover, we asked whether sequential number assignment causes undue burden to any particular industry segment, or creates unnecessary customer inconvenience. n589

n582 *See* Thousands Block Pooling Guidelines at § 8.2.4. Service providers are required to protect blocks with less than 10% contamination, unless the service provider does not have an adequate supply of numbers in its inventory to meet customer needs (other than for "vanity" numbers). *Id.* [**289]

n583 Thousands Block Pooling Guidelines at § 2.7(d).

n584 *Notice, 14 FCC Rcd at 10404.*

n585 *Id.*

n586 *Id. at 10404-05.*

n587 *Id.*

n588 *Id.*

n589 *Id.*

243. Since the release of the *Notice*, several state commissions were granted interim authority by the Commission to require sequential number assignment rules prior to or in [*7684] connection with the commencement of thousands-block number pooling trials. n590 In light of the concern that a grant of this authority to the state commissions could interfere with a carrier's ability to satisfy a customer request for a particular set of numbers, we urged the state commissions to allow carriers some flexibility in assigning numbers sequentially. n591 Similar to using utilization or "fill" rates for growth codes, we also insisted that the state commissions consult with each other to attempt to implement consistent rules for sequential number assignment. n592

n590 *California Delegation Order, 14 FCC Rcd at 17499-500; Ohio Delegation Order* at P24; *Texas Delegation Order* at P29; *Wisconsin Delegation Order* at P24. [**290]

n591 *Id.*

n592 *Id.*

b. Discussion

244. We adopt a flexible requirement which mandates that carriers first assign all available telephone numbers within an opened thousands-block before opening another thousands-block, unless the available numbers in the opened thousands-block are not sufficient to meet a customer request. We note that this requirement applies to a carriers existing numbering resources as well as any new numbering resources it obtains in the future. We believe that such a requirement will adequately protect clean thousands-blocks from unnecessary contamination. We agree with commenting parties who express concern that the strict sequential numbering requirement we discussed in the *Notice* may be too inflexible to meet customer needs. n593 We believe, however, that the implementation of a requirement to manage thousands-blocks to maximize the availability of clean or lightly contaminated thousands blocks will increase the efficacy of pooling.

n593 *See* Bell Atlantic comments at 31 (arguing that carriers should be able to meet specific customer requirements with any number resource at their disposal); PrimeCo comments at 9 (stating that carriers should be able to extract a certain quantity of numbers from each NXX code to be held as 'vanity" numbers); WinStar comments at 32 (noting that any numbering scheme must allow service providers the opportunity to hold aside 20% of an NXX code for the assignment of preferred or "vanity" numbers, and that part of the guidelines could include opportunity for a service provider to extract a certain quantity of numbers from each NXX block to be held as "vanity" numbers and for large customers requiring even blocks of numbers). [**291]

245. Under our requirement, a carrier that opens a clean block prior to utilizing in its entirety a previously-opened thousands-block should be prepared to demonstrate to the state commission: (1) a genuine request from a customer detailing the specific need for telephone numbers; (2) the inability on the part of the carrier to meet the specific customer request for telephone numbers from the surplus of numbers within the carrier's currently activated thousands-block. We believe that this requirement will improve carrier efficiency in utilizing numbering resources, while maintaining carrier flexibility in meeting customer demand. We also acknowledge that this requirement has the potential to forestall other thousands blocks from becoming contaminated - and thus ineligible for possible donation to a pool. We also find that [*7685] sequential number assignment may improve carrier efficiency in utilizing numbering resources, regardless of whether pooling is implemented.

246. We further require that existing delegations of sequential numbering authority conform to the provisions herein. State commissions are required to conform their existing sequential number assignment requirements [**292] by January 1, 2001. We recognize the potential inconvenience and confusion from the existence of disparate requirements, and believe that a uniform requirement will be more manageable. To the extent that this requirement and any other requirement articulated in this *Report and Order* conflicts with the Thousand Block Pooling Guidelines, all carriers are required to follow this mandate.

VII. FURTHER NOTICE OF PROPOSED RULEMAKING

247. *Introduction.* In the accompanying *Report and Order*, we seek to address the underlying drivers of area code exhaust and thereby extend the life of the NANP through effective number conservation and efficient utilization measures. We adopted both administrative and technical measures that are designed to increase the efficient allocation and use of NANP resources. Specifically, we adopted numbering status definitions that must be used by carriers to categorize their numbering resources and report utilization information in semiannual reports and requests for numbering resources. We also adopted enhanced data reporting and audit requirements to increase efficient management of and carrier accountability for numbering resources. In addition, [**293] we approved thousands-block number pooling as an essential numbering resource optimization strategy. To better ensure that numbering resources are used efficiently, we adopted numbering resource reclamation requirements. We delegated additional authority to state commissions to require sequential numbering assignment in order to encourage better management of numbering resources. Further, we established a utilization threshold framework that links the allocation of numbering resources with an actual need by the carrier for those resources to provide service.

A. Utilization Threshold

248. As noted in the *Report and Order*, we seek further comment on what specific utilization threshold carriers not participating in thousands-block number pooling carriers should meet in order to request growth numbering resources. Commenters that offered a specific utilization threshold suggested that utilization thresholds should be set as low as 60% and as high as 90%. However, very little information was provided as to the basis for these specific threshold levels. We seek comment on specific utilization threshold(s). Comments should include rationale for the specific threshold(s) recommended, [**294] including the initial level, annual increases, and the maximum level. We tentatively conclude that a nationwide utilization threshold for growth numbering resources should be initially set at 50%. This threshold would increase by 10% annually until it reaches 80%. Additionally, we propose to require carriers to meet a specific rate center-based utilization threshold for the rate center in which it is seeking additional numbering resources. If parties propose a utilization threshold range, parties should explain in detail what criteria should be used to determine the specific rate-center based utilization threshold within that range. We seek further comment on whether state commissions should be allowed to set the rate-center based utilization threshold within this range based on [*7686] criteria that we establish. We also seek further comment on utilization thresholds at the rate center level, that should operate in unison with the thresholds at the NPA level.

B. Implementation of Pooling for Non-LNP-Capable Carriers

249. We seek comment on whether covered CMRS carriers should be required to participate in pooling immediately upon expiration of the LNP forbearance period on [**295] November 24, 2002. In the alternative, we seek comment on whether we should allow some sort of transition period between the time that covered CMRS carriers must implement LNP, and the time that they must participate in pooling, n594 and if so, what the minimum reasonable allowance for such a transition period would be. We note that by determining in this order that covered CMRS carriers will be required to participate in pooling once they have acquired LNP capability, we are providing a fairly long lead-time--more than two years--in which all of the necessary preparations may be accomplished. We further note that after they have acquired LNP capability, covered CMRS providers will be subject to the same terms and conditions regarding participation in thousands-block number pooling as are other LNP-capable carriers. For example, CMRS providers within and outside the top 100 MSAs will not be subject to pooling unless they have received a request for LNP from another carrier, and pooling will be limited to the same service area as their LNP deployment.

n594 *Cf.* AT&T comments at 48; GTE comments at 50-51.

C. Pricing for Numbers

250. In the *Notice* we indicated that an [**296] alternative approach for improving the allocation and utilization of numbering resources would be to require carriers to pay for them. We noted that this approach could be in isolation or in combination with the administrative and numbering optimization approaches identified in the *Notice.* n595

n595 *Notice, 14 FCC Rcd at 10416.*

251. Many commenters opposed pricing for numbering resources. One of the primary economic reasons given for opposing a market-based allocation system was that numbering resources are allocated in 10,000 blocks by rate center.

Pricing under this paradigm, it was argued, would create a barrier to entry to new markets. n596 This could be true if carriers were barred from sharing spare numbering resources with other carriers. In any case, we continue to believe that a market-based approach is the most pro-competitive, least intrusive way of ensuring that numbering resources are efficiently allocated. We believe that thousands-block pooling will substantially reduce the quantity of numbering resources new entrants will need to accumulate to enter a market. Therefore, we seek further comment on how a market-based allocation system [**297] for numbering resources could be implemented. Specifically, we seek comment on how a market-based allocation system would affect the efficiency of allocation of numbers among carriers. Given that our motivation in seeking comment on such an approach is to increase the efficiency with which numbering resources are allocated, and not to raise additional funds, we [*7687] also seek comment on whether funds collected in this way could be used to offset other payments carriers make, such as contributions to the universal service and TRS programs. Commenters addressing this issue should specifically address how to account for the fact that some carriers, such as interexchange carriers, do not generally use numbering resources but currently contribute to these other programs. Commenters should also ensure that their proposals provide market-based incentives for carriers to economize their use of numbering resources.

n596 Texas Public Util. Counsel and NASUCA comments at 40.

D. Recovery of Shared Industry and Direct Carrier-Specific Costs

252. Requiring incumbent LECs to bear their own costs related to thousands-block number pooling will not disadvantage any telecommunications [**298] carrier. All other carriers are also required to bear their own shared industry and carrier-specific costs. In the *Notice*, we tentatively concluded that incumbent LECs subject to rate-of-return or price cap regulation may not recover their interstate carrier-specific costs directly related to thousands-block number pooling through a federal charge assessed on end-users, but may recover the costs through other cost recovery mechanisms. n597 Several parties agree with the tentative conclusion that thousands-block number pooling costs should not be recovered through a federal charge assessed on end users, but should be recovered through access charges. n598 Some commenters recommend that price cap LECs should be allowed to treat the thousands-block pooling number costs as exogenous cost adjustments or, alternatively, place the costs in a new or existing price cap basket. n599 Other parties, however, urge us to abandon our tentative conclusion because recovery through access charges would violate the competitive neutrality standard of section 251(e)(2). n600

n597 *Notice, 14 FCC Rcd at 10410.*

n598 NECA comments at 2; New Hampshire Commission comments at 18; New York Commission comments at 12; Ohio Commission comments at 35. [**299]

n599 *See* Cox comments at 17; USTA comments at 11; U S West comments at 34 (stating that ongoing costs of number pooling should be recovered through an ongoing exogenous adjustment).

n600 MCI WorldCom comments at 53.

253. In the *Notice*, we requested detailed estimates of the costs of thousands-block number pooling and asked that commenters separate the estimates by category of costs. n601 We also sought comment on the appropriate methodology for developing these and other cost estimates. n602 The amount and detail of the data provided in response to our request is insufficient for us to determine the amount and/or magnitude of the costs associated with thousands-block number pooling. Without sufficient cost data, it is difficult for us to determine the appropriate cost recovery mechanism for these costs. We, therefore, find it necessary to request additional cost information prior to making a final decision on the appropriate method of cost recovery. We seek further comment and cost studies that quantify shared industry and direct carrier-specific costs of thousands-block number pooling. We also seek comment and cost studies that take into [*7688] account the cost [**300] savings associated with thousands-block pooling in comparison to the current numbering practices that result in more frequent area code changes.

n601 *Notice, 14 FCC Rcd at 10407-08.*

n602 *Id.*

VIII. PROCEDURAL MATTERS

A. *Ex Parte* Presentations

254. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. n603 Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a list of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. n604

n603 *See* Amendment of 47 C.F.R. 1.1200 et seq. Concerning Ex Parte Presentations in Commission Proceedings, *Report and Order, 12 FCC Rcd 7348, 7356-57 (1997)* (citing 47 C.F.R. § 1.1204(b)(1)).

n604 *See* 47 C.F.R. § 1.1206(b)(2).

B. Comment Filing Procedures

255. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. § § 1.415 and 1.419, interested [**301] parties may file comments on or before May 1, 2000, and reply comments on or before May 16, 2000. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. n605 Comments filed through the ECFS can be sent as an electronic file via the Internet to http://www.fcc.gov/e-file/ecfs.html. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number, which in this instance is CC Docket No. 99-200. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

n605 *See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24, 121 (1998).*

256. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's [**302] Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W. Room TW A325, Washington, D.C. 20554.

257. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. n606 We also direct all interested parties to include the name of the filing party and the date of the filing on each page [*7689] of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

n606 *See* 47 C.F.R. § 1.49.

258. Parties who choose to file paper should submit their comments on diskette. These diskettes should be submitted to Jeannie Grimes, Network Services Division, Common Carrier Bureau, 445 Twelfth Street, S.W., Room 6-A207, Washington, D.C. 20554. Such submissions should be on a 3.5-inch diskette formatted in an IBM compatible format using Word for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. [**303] The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette.

259. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231

20th Street, N.W., Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 Twelfth Street, S.W. Washington, D.C. 20554.

C. Regulatory Flexibility Act

260. As required by the Regulatory Flexibility Act (RFA), *5 U.S.C. § 603,* an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice.* The Commission sought written public comment on the proposals in the *Notice,* including the IRFA. n607 Appendix B sets forth the Final Regulatory Flexibility Analysis for the *Report and Order.*

n607 *5 U.S.C. § 603*(a).

D. Final Paperwork Reduction [**304] **Act Analysis**

261. The *Notice* from which the *Report and Order* issues proposed changes to the Commission's information collection requirements. As required by the Paperwork Reduction Act of 1995, the Commission sought comment from the public and from the Office of Management and Budget (OMB) on the proposed changes. This *Report and Order* contains several new information collections, which will be submitted to OMB for approval, as prescribed by the Paperwork Reduction Act.

E. Further Notice Initial Paperwork Reduction Act Analysis

262. This *Further Notice* does not contain either a proposed nor a modified information collection, and therefore, there is no need to seek comments from the general public and the OMB.

[*7690] **IX. ORDERING CLAUSES**

263. Accordingly, IT IS ORDERED that, pursuant to Sections 1, 3, 4, 201-205, 251 of the Communications Act of 1934, as amended, *47 U.S.C. § § 151,* 153, 154, 201-205, and 251, this REPORT AND ORDER is hereby ADOPTED and Part 52 of the Commission's rules ARE AMENDED as set forth in the attached Appendix A.

264. IT IS FURTHER ORDERED that the amendments to sections 52.7 through 52.19 [**305] of the Commission's rules as set forth in Appendix B ARE ADOPTED, effective thirty days from the date of publication in the Federal Register. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and/or recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and/or recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMD) as prescribed by the Act, and will go into effect upon announcement in the Federal Register of OMB approval.

265. IT IS FURTHER ORDERED that pursuant to Sections 1, 3, 4, 201-205, 251 of the Communications Act of 1934, as amended, *47 U.S.C. § § 151,* 153, 154, 201-205, and 251 this FURTHER NOTICE OF PROPOSED RULEMAKING is hereby ADOPTED.

266. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this *Report and Order and Further Notice of Proposed Rulemaking,* including the Initial and Final Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of Small Business Administration. [**306]

Magalie Roman

Salas Secretary

CONCURBY:

NESS; FURCHTGOTT-ROTH

CONCUR:

[*7715] **SEPARATE STATEMENT OF COMMISSIONER SUSAN NESS**

Re: Numbering Resource Optimization (CC Docket No. 99-200)

I support the steps we take in this order to implement strategies to conserve telephone numbers. I share the frustration the public is experiencing with the proliferation of new area codes. Each area code change imposes substantial costs and burdens on consumers. This order is only one step in our efforts to ensure that numbers are used efficiently. We must continue to work together with state public utility commissions, industry and consumer groups, and other interested parties to develop additional strategies to slow the rate at which new area codes are required.

I also support collecting information on number utilization from carriers so that we can ensure that numbers are being used efficiently. Nevertheless, we must recognize that reporting requirements impose a burden, especially on small, rural carriers. These carriers generally use few numbering resources, rarely seek additional numbering resources, and therefore, are not a significant cause of number exhaust problems. I am pleased that today's order recognizes [**307] the disproportionate burden of reporting requirements on small carriers by imposing fewer requirements on them. I would have preferred to exempt, from more detailed reporting, rural carriers that generally operate in areas where demand for numbers is not as great. As just one example, I would not have required rural carriers to maintain internal records of numerous subcategories of number usage. To the extent carriers consider that any of the requirements in this order impose an undue burden, I would encourage these carriers, or associations of these carriers, to seek a joint waiver.

[*7716] **SEPARATE STATEMENT OF COMMISSIONER HAROLD FURCHTGOTT-ROTH**

Re: Numbering Resource Optimization, CC Docket No. 99-200.

I share Commissioner Ness's concern that this order's requirements may unduly and unnecessarily burden rural carriers. I therefore support Commissioner Ness's recommendation that these carriers, should they find any of these requirements too onerous, seek a waiver.

APPENDIX:

Appendix A

Final Rules

PART 52 - NUMBERING

Subpart B--Administration

1. The authority citation for Part 52 continues to read as follows:

AUTHORITY: Sections 1, 2, 4, 5, 48 Stat. 1066, as amended; [**308] *47 U.S.C. § 151,* 152, 154, 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201-05, 207-09, 218, 225-7, 251-2,271 and 332, 48 Stat. 1070, as amended, 1077; *47 U.S.C. 153,* 154, 201-205, 207-09, 218, 225-7, 251-2, 271 and 332 unless otherwise noted.

2. Section 52.5 is revised to read as follows:

§ 52.5 Definitions.

(a) ***

(b) ***

(c) ***

(d) ***

(e) ***

(f) ***

(g) ***

(h) ***

(i) *Service Provider.* The term "service provider" refers to a telecommunications carrier or other entity that receives numbering resources from the NANPA, a Pooling Administrator or a telecommunications carrier for the purpose of providing or establishing telecommunications service.

3. Section 52.7 is revised to read as follows:

§ 52.7 Definitions.

(a) ***

(b) ***

(c) ***

(d) ***

(e) ***

(f) ***

(g) *Pooling Administrator (PA).* The term Pooling Administrator refers to the entity or entities responsible for administering a thousands-block number pool.

(h) *Contamination.* Contamination occurs when at least one telephone number within a block of telephone numbers is [**309] not available for assignment to end users or customers. For purposes of this provision, a telephone number is "not available for assignment" if it is classified as administrative, aging, assigned, intermediate, or reserved as defined in new § 52.15(f)(1) of this part.

(i) *Donation.* The term "donation" refers to the process by which carriers are required to contribute telephone numbers to a thousands-block number pool.

(j) *Inventory.* The term "inventory" refers to all telephone numbers distributed, assigned or allocated:

(1) To a service provider; or

(2) To a pooling administrator for the purpose of establishing or maintaining a thousands-block number pool.

4. Section 52.15 is revised to read as follows:

§ 52.15 Central office code administration.

(a) ***

(b) ***

(c) ***

(d) ***

(e) ***

(f) *Mandatory Reporting Requirements.*

(1) *Number Use Categories.* Numbering resources must be classified in one of the following categories:

(i) *Administrative numbers* are numbers used by telecommunications carriers to perform internal administrative or operational functions necessary to maintain reasonable quality of service standards.

[**310] (ii) *Aging numbers* are disconnected numbers that are not available for assignment to another end user or customer for a specified period of time. Numbers previously assigned to residential customers may be aged for no more than 90 days. Numbers previously assigned to business customers may be aged for no more than 360 days.

(iii) *Assigned numbers* are numbers working in the Public Switched Telephone Network under an agreement such as a contract or tariff at the request of specific end users or customers for their use, or numbers not yet working but having a customer service order pending. Numbers that are not yet working and have a service order pending for more than five days shall not be classified as assigned numbers.

(iv) *Available numbers* are numbers that are available for assignment to subscriber access lines, or their equivalents, within a switching entity or point of interconnection and are not classified as assigned, intermediate, administrative, aging, or reserved.

(v) *Intermediate numbers* are numbers that are made available for use by another telecommunications carrier or non-carrier entity for the purpose of providing telecommunications service to an [**311] end user or customer. Numbers ported for the purpose of transferring an established customer's service to another service provider shall not be classified as intermediate numbers.

(vi) *Reserved numbers* are numbers that are held by service providers at the request of specific end users or customers for their future use. Numbers held for specific end users or customers for more than 45 days shall not be classified as reserved numbers.

(2) *Reporting Carrier.* The term "reporting carrier" refers to a telecommunications carrier that receives numbering resources from the NANPA, a Pooling Administrator or another telecommunications carrier.

(3) *Data Collection Procedures.*

(i) Reporting carriers shall report utilization and forecast data to the NANPA.

(ii) Reporting shall be by separate legal entity and must include company name, company headquarters address, OCN, parent company OCN(s). and the primary type of business for which the numbers are being used.

(iii) All data shall be filed electronically in a format approved by the Common Carrier Bureau.

(4) *Forecast Data Reporting.*

(i) Reporting carriers shall submit to the NANPA a five-year forecast of their yearly [**312] numbering resource requirements.

(ii) In areas where thousands-block number pooling has been implemented:

(A) Reporting carriers that are required to participate in thousands-block number pooling shall report forecast data at the thousands-block (NXX-X) level per rate center;

(B) Reporting carriers that are not required to participate in thousands-block number pooling shall report forecast data at the central office code (NXX) level per rate center.

(iii) In areas where thousands-block number pooling has not been implemented, reporting carriers shall report forecast data at the central office code (NXX) level per NPA.

(iv) Reporting carriers shall identify and report separately initial numbering resources and growth numbering resources.

(5) *Utilization Data Reporting.*

(i) Reporting carriers shall submit to the NANPA a utilization report of their current inventory of numbering resources. The report shall classify numbering resources in the following number use categories: *assigned, intermediate, reserved, aging*, and *administrative.*

(ii) Rural telephone companies, as defined in the Communications Act of 1934, as amended, *47 U.S.C. § 153* [**313] (37), that provide telecommunications service in areas where local number portability has not been implemented shall report utilization data at the central office code (NXX) level per rate center in those areas.

(iii) All other reporting carriers shall report utilization data at the thousands-block (NXX-X) level per rate center.

(6) *Reporting Frequency.*

(i) Reporting carriers shall file forecast and utilization reports semi-annually on or before February 1 for the preceding reporting period ending on December 31, and on or before August 1 for the preceding reporting period ending on June 30. Mandatory reporting shall commence August 1, 2000.

(ii) State commissions may reduce the reporting frequency for NPAs in their states to annual. Reporting carriers operating in such NPAs shall file forecast and utilization reports annually on or before August 1 for the preceding reporting period ending on June 30, commencing August 1, 2000.

(iii) A state commission seeking to reduce the reporting frequency pursuant to subsection (ii) of this provision shall notify the Common Carrier Bureau and the NANPA in writing prior to reducing the reporting frequency.

(7) *Access to Data* [**314] *and Confidentiality.* States shall have access to data reported to the NANPA provided that they have appropriate protections in place to prevent public disclosure of disaggregated, carrier-specific data.

(g) *Applications for Numbering Resources.*

(1) *General Requirements.* All applications for numbering resources must include the company name, company headquarters address. OCN, parent company's OCN(s), and the primary type of business in which the numbering resources will be used.

(2) *Initial numbering resources.* Applications for initial numbering resources shall include evidence that:

(i) The applicant is authorized to provide service in the area for which the numbering resources are being requested; and

(ii) The applicant is or will be capable of providing service within sixty (60) days of the numbering resources activation date.

(3) *Growth numbering resources.*

(i) Applications for growth numbering resources shall include:

(A) A Months-to-Exhaust Worksheet that provides utilization by rate center for the preceding six months and projected monthly utilization for the next twelve (12) months; and

(B) The applicant's current numbering resource [**315] utilization level for the rate center in which it is seeking growth numbering resources.

(ii) The numbering resource utilization level shall be calculated by dividing all *assigned numbers* by the total numbering resources in the applicant's inventory and multiplying the result by 100. Numbering resources activated in the Local Exchange Routing Guide (LERG) within the preceding 90 days of reporting utilization levels may be excluded from the utilization calculation.

(iii) All service providers shall maintain no more than a six-month inventory of telephone numbers in each rate center or service area in which it provides telecommunications service.

(iv) The NANPA shall withhold numbering resources from any U.S. carrier that fails to comply with the reporting and numbering resource application requirements established in this part. The NANPA shall not issue numbering resources to a carrier without an Operating Company Number (OCN). The NANPA must notify the carrier in writing of its decision to withhold numbering resources within ten (10) days of receiving a request for numbering resources. The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. [**316] The state regulatory commission may affirm or overturn the NANPA's decision to withhold numbering resources from the carrier based on its determination of compliance with the reporting and numbering resource application requirements herein.

(h) [Reserved]

(i) *Reclamation of numbering resources.*

(1) Reclamation refers to the process by which service providers are required to return numbering resources to the NANPA or the Pooling Administrator.

(2) State commissions may investigate and determine whether service providers have activated their numbering resources and may request proof from all service providers that numbering resources have been activated and assignment of telephone numbers has commenced.

(3) Service providers may be required to reduce contamination levels to facilitate reclamation and/or pooling.

(4) State commissions shall provide service providers an opportunity to explain the circumstances causing the delay in activating and commencing assignment of their numbering resources prior to initiating reclamation.

(5) The NANPA and the Pooling Administrator shall abide by the state commission's determination to reclaim numbering resources if the state [**317] commission is satisfied that the service provider has not activated and commenced assignment to end users of their numbering resources within six months of receipt.

(6) The NANPA and Pooling Administrator shall initiate reclamation within sixty days of expiration of the service provider's applicable activation deadline.

(7) If a state commission declines to exercise the authority delegated to it in this subsection, the entity or entities designated by the Commission to serve as the NANPA shall exercise this authority with respect to NXX codes and the Pooling Administrator shall exercise this authority with respect to thousands-blocks. The NANPA and the Pooling Administrator shall consult with the Common Carrier Bureau prior to exercising the authority delegated to it in this provision.

(j) *Sequential Number Assignment.*

(1) All service providers shall assign all available telephone numbers within an opened thousands-block before assigning telephone numbers from an uncontaminated thousands-block, unless the available numbers in the opened thousands-block are not sufficient to meet a specific customer request. This requirement shall apply to a service provider's existing [**318] numbering resources as well as any new numbering resources it obtains in the future.

(2) A service provider that opens an uncontaminated thousands-block prior to assigning all available telephone numbers within an opened thousands-block should be prepared to demonstrate to the state commission:

(i) A genuine request from a customer detailing the specific need for telephone numbers; and

(ii) The service provider's inability to meet the specific customer request for telephone numbers from the available numbers within the service provider's opened thousands-blocks.

(3) Upon a finding by a state commission that a service provider inappropriately assigned telephone numbers from an uncontaminated thousands-block, the NANPA or the Pooling Administrator shall suspend assignment or allocation of any additional numbering resources to that service provider in the applicable NPA until the service provider demonstrates that it does not have sufficient numbering resources to meet a specific customer request.

5. Part 52 is revised by adding new section 52.20:

§ 52.20 Thousands-block number pooling.

(a) *Definition.* Thousands-block number pooling is a process by which the [**319] 10,000 numbers in a central office code (NXX) are separated into ten sequential blocks of 1,000 numbers each (thousands-blocks), and allocated separately within a rate center.

(b) *General Requirements.* Pursuant to the Commission's adoption of thousands-block number pooling as a mandatory nationwide numbering resource optimization strategy, all carriers capable of providing local number portability (LNP) must participate in thousands-block number pooling where it is implemented and consistent with the national thousands-block number pooling framework established by the Commission.

(c) *Donation of thousands-blocks.*

(1) All service providers required to participate in thousands-block number pooling shall donate thousands-blocks with less than ten percent contamination to the thousands-block number pool for the rate center within which the numbering resources are assigned.

(2) All service providers required to participate in thousands-block number pooling shall be allowed to maintain at least one thousands-block per rate center, even if the thousands-block is less than ten-percent contaminated, as an initial block or footprint block.

(3) Telephone numbers assigned [**320] to customers of service providers from donated thousands-blocks that are contaminated shall be ported back to the donating service provider.

(d) *Thousands-Block Pooling Administrator.*

(1) The Pooling Administrator shall be a non-governmental entity that is impartial and not aligned with any particular telecommunication industry segment, and shall comply with the same neutrality requirements that the NANPA is subject to under this part.

(2) The Pooling Administrator shall maintain no more than a six-month inventory of telephone numbers in each thousands-block number pool.

Appendix B

Final Regulatory Flexibility Act Analysis

1. As required by the Regulatory Flexibility Act (RFA), n608 an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Notice.* n609 The Commission sought written public comment on the proposals in the *Notice,* including comment on the IRFA. There were no comments received on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA. n610

n608 *See 5 U.S.C. § 603.* The RFA, *see 5 U.S.C. § 601 et seq.,* has been amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). [**321]

n609 *See Notice, 14 FCC Rcd at 10433-34.*

n610 *See 5 U.S.C. § 604.*

2. *Need for and Objectives of this Report and Order.* In the *Notice* we sought public comment on how best to create national standards for numbering resource optimization. In doing so, the primary objective was to (1) ensure sufficient access to numbering resources for all service providers that need them to enter into or to compete in telecommunications markets; (2) avoid, or at least delay, exhaust of the NANP and the need to expand the NANP; (3) minimize the negative impact on consumers; (4) impose the least cost possible, in a competitively neutral manner, while obtaining the highest benefit; (5) ensure that no class of carrier or consumer is unduly favored or disfavored by our numbering resource optimization efforts; and (6) minimize the incentives for building and carrying excessively large inventories of numbers.

3. In this *Report and Order* we adopt administrative and technical measures that will allow us to monitor more closely the way numbering resources are used within the NANP. Specifically, we adopt a mandatory data reporting [**322] requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and incentives to use numbers efficiently. In addition, we adopt a system for allocating numbers in blocks of one thousand, rather than ten thousand, wherever possible ("thousands-block number pooling"), and establish a plan for national rollout of thousands-block number pooling. Furthermore, we adopt numbering resource reclamation requirements to ensure the return of unused numbers to the NANP inventory for assignment to other carriers. We also mandate sequential assignment of numbering resources within thousands blocks to facilitate reclamation and the establishment of thousands-block number pools.

4. *Description and Estimate of the Number of Small Entities That May Be Affected by this Report and Order.* The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. n611 The Regulatory Flexibility Act defines the term "small entity" as having the same meaning as the terms "small business," "small [**323] organization," and "small business concern" under section 3 of the Small Business Act. n612 A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. n613

n611 *5 U.S.C. § 603*(b)(3).

n612 *Id.* at § 601(3).

n613 *Id.* at § 632.

5. In this FRFA, we have considered the potential impact of this *Report and Order* on all users of telephone numbering resources. The small entities possibly affected by these rules include wireline, wireless, and other entities, as described below. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4,812 (Radiotelephone Communications) and 4,813 (Telephone Communications, Except Radiotelephone) to be small entities having no more than 1,500 employees. n614 In the FRFA to the *Universal Service Order*, we described and estimated in detail the number of small entities that would be affected by the new universal service rules. n615 Although some affected incumbent local exchange carriers (ILECs) may have 1,500 or fewer employees, we [**324] do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition are not "small entities" or "small business concerns" under the RFA. Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small ILECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small ILECs within this analysis and use the term "small ILECs" to refer to any ILECs that arguably might be defined by the SBA as "small business concerns." n616

n614 13 C.F.R. § 121.201.

n615 Federal-State Joint Board on Universal Service, *Report and Order, CC Docket No. 96-45, 12 FCC Rcd 8776, 9227-9243 (1997)* (*Universal Service Order*), as corrected by Federal-State Joint Board on Universal Service, *Erratum*, CC Docket No. 96-45, FCC 97-157 (rel. June 4, 1997), *appeal pending sub nom. Texas Office of Public Utility Counsel v. FCC and USA*, No. 97-60421 (5th Cir. 1997).

n616 *See* 13 C.F.R. § 121.201, SIC code 4813. Since the time of the *Local Competition* decision, *11 FCC Rcd 15499, 16144-45 (1996), 61 FR 45476* (Aug. 29, 1996), the Commission has consistently addressed in its regulatory flexibility analyses the impact of its rules on such ILECs. [**325]

6. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Carrier Locator: Interstate Service Providers Report (Locator)*. n617 These carriers include. *inter alia*, local exchange carriers, competitive local exchange carriers, interexchange carriers, competitive access providers, satellite service providers, wireless telephony providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

n617 FCC, Carrier Locator: Interstate Service Providers at 1-2. This report lists 3,604 companies that provided interstate telecommunications service as of December 31, 1997 and was compiled using information from Telecommunications Relay Service (TRS) Fund Worksheets filed by carriers (Jan. 1999).

7. *Total Number of Companies Affected.*
1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at [**326] least one year. n618 This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, personal communications services providers, covered specialized mobile radio providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small ILECs because they are not "independently owned and operated." n619 For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small ILECs that may be affected by the proposed rules, if adopted.

n618 U.S. Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1-123 (1995) (*1992 Census*).

n619 *See generally 15 U.S.C. § 632*(a)(1).

8. *Local* [**327] *Service Providers*. There are two principle providers of local telephone service; ILECS and competitive local service providers. Neither the Commission nor the SBA has developed a definition for small providers of local exchange services (LECs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. n620 According to data set forth in the *FCC Statistics of Communications Common Carriers (SOCC)*, 34 ILECs have more than 1,500 employees. n621 We do not have data specifying the number of these carriers that are either dominant in their field of operations or are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of ILECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,376 ILECs are small entities that may be affected by the proposed rules, if adopted.

n620 *Id.*

n621 *SOCC* at Table 2.9.

9. We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent [**328] small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." n622 The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. n623 We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

n622 *5 U.S.C. § 601*(3).

n623 Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." *See 15 U.S.C. § 632*(a) (Small Business Act); *5 U.S.C. § 601*(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 C.F.R. § 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. *See, e.g.*, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *First Report and Order, 11 FCC Rcd 15499, 16144-45 (1996).* [**329]

10. *Competitive Local Service Providers.* This category includes competitive access providers (CAPs), competitive local exchange providers (CLECs), shared tenant service providers, local resellers, and other local service providers.

Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive local service providers. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. n624 According to the most recent *Locator* data, 145 carriers reported that they were engaged in the provision of competitive local service. n625 We do not have data specifying the number of these carriers that are not independently owned or operated, and thus are unable at this time to estimate with greater precision the number of competitive local service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 145 small entity competitive local service providers that may be affected by the proposed rules, if adopted.

n624 13 C.F.R. § 121.201, SIC code 4813.

n625 *Locator* at 1-2. [**330]

11. *Providers of Toll Service.* The toll industry includes providers of interexchange services (IXCs), satellite service providers and other toll service providers, primarily resellers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of toll service. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. n626 According to the most recent *Locator* data, 164 carriers reported that they were engaged in the provision of toll services. n627 We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 164 small entity toll providers that may be affected by the proposed rules, if adopted.

n626 13 C.F.R. § 121.201, SIC code 4813.

n627 *Locator* at 1-2.

12. *Resellers.* This category includes toll resellers, operator service [**331] providers, prepaid calling card providers, and other toll service providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies. n628 According to the most recent *Locator* data, 405 carriers reported that they were engaged in the resale of telephone service. n629 We do not have data specifying the number of these carriers that are not independently owned or operated, and thus are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 405 small entity resellers that may be affected by the proposed rules, if adopted.

n628 13 C.F.R. § 121.201, SIC code 4813.

n629 *Locator* at 1-2.

13. *Wireless Telephony and Paging and Messaging.* Wireless telephony includes cellular, personal communications service (PCS) or specialized mobile radio (SMR) service providers. Neither the Commission nor the SBA has developed a definition of [**332] small entities applicable to cellular licensees, or to providers of paging and messaging services. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies. n630 According to the most recent *Locator* data, 732 carriers reported that they were engaged in the provision of wireless telephony and 137 companies reported that they were engaged in the provision of paging and messaging service. n631 We do not have data specifying the number of these carriers that are not independently owned or operated, and thus are unable at this time to estimate with greater precision the number that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 732 carriers are engaged in the provision of wireless telephony and fewer than 137 companies are engaged in the provision of paging and messaging service.

n630 13 C.F.R. § 121.201, SIC code 4813.

n631 *Locator* at 1-2.

14. *Cable and Pay Television Service Providers*. The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating [**333] $ 11 million or less in revenue annually. n632 This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than $ 11 million in revenue. n633

n632 13 C.F.R. § 121.201, SIC code 4841.

n633 *1992 Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, SIC code 4841 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

15. The Commission has developed its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a "small cable company" is one serving fewer than 400,000 subscribers nationwide. n634 Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995. n635 Since then, some of those companies may have grown to serve over 400,000 subscribers, and others [**334] may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators.

n634 47 C.F.R. § 76.901(e). The Commission developed this definition based on its determination that a small cable system operator is one with annual revenues of $ 100 million or less. Implementation of Sections of the 1992 Cable Act: Rate Regulation, *Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393 (1995), 60 FR 10534* (Feb. 27, 1995).

n635 Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for Dec. 30, 1995).

16. The Communications Act also contains a definition of a small cable system operator, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $ 250,000,000." n636 The Commission has determined that there are 66,000,000 subscribers in the United States. Therefore, we found that [**335] an operator serving fewer than 660,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $ 250 million in the aggregate. n637 Based on available data, we find that the number of cable operators serving 660,000 subscribers or less totals 1,450. n638 We do not request nor do we collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed $ 250,000,000, n639 and thus are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act. It should be further noted that recent industry estimates project that there will be a total of 66,000,000 subscribers, and we have based our fee revenue estimates on that figure.

n636 *47 U.S.C. § 543*(m)(2).

n637 47 C.F.R. § 76.1403(b).

n638 Paul Kagan Associates, Inc., *Cable TV Investor, supra.*

n639 We do receive such information on a case-by-case basis only if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to section 76.1403(b) of the Commission's rules. *See* 47 C.F.R. § 76.1403(d). [**336]

17. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*. n640 This *Report and Order* mandates the following information collection: All carriers that receive numbering resources from the NANPA (code holders), or that receive numbering resources from a pooling administrator in thousands-blocks (block holders), must report forecast and utilization data to the NANPA on a semi-annual basis. n641 All carriers, except rural

telephone companies as defined by the Communications Act of 1934, as amended, n642 must report their utilization data at the thousands-block level per rate center. n643 Rural telephone companies in areas where local number portability has not been implemented may report their utilization data at the NXX per rate center level. Forecast data will be reported at the thousands-block per rate center level in pooling NPAs, and in non-pooling NPAs at the NXX per NPA level. n644 Furthermore, carriers not participating in thousands-block number pooling must report their utilization rate along with the months to exhaust worksheet at the time they request additional numbering resources.

n640 *See also Notice, 14 FCC Rcd at 10433,* for an Initial Paperwork Reduction Act analysis. [**337]

n641 *See supra* P40.

n642 *47 U.S.C. § 153*(37).

n643 *See supra* P70.

n644 *See supra* P73.

18. We require all carriers, except rural telephone companies, to maintain internal records of their numbering resources for all 13 categories (5 major, and 8 subcategories) as defined in Section C. Carriers are to maintain this data for a period of not less than 5 years. n645

n645 *See supra* P62.

19. *Other Compliance Requirements.* None.

20. *Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.* We have concluded that the cost of data collection will be minimized if done electronically. n646 Although we have stated that all carriers must report their forecast and utilization data electronically, we have provided for more than one method. Large and mid-size carriers may submit by electronic file transfer similar to FTP. Smaller carriers may file using a NANPA-developed spreadsheet format via Internet-based online access. Very small carriers may fax their data submissions to the NANPA. We find it reasonable to allow any carrier whose forecast and utilization data has [**338] not changed from the previous reporting period to simply refile the prior submission or indicate that there has been no change since the last reporting. n647

n646 *See supra* P53.

n647 *See supra* P42.

21. *Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules.* None.

22. *Report to Congress.* The Commission will send a copy of this *Report and Order* in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. n648 In addition, the Commission will send a copy of this *Report and Order* to the Chief Counsel for Advocacy of Small Business Administration. A copy of this *Report and Order* (or summary thereof) will also be published in the Federal Register. n649

n648 *See 5 U.S.C. § 801*(a)(1)(A)

n649 *See 5 U.S.C. § 604*(b).

Appendix C

Initial Regulatory Flexibility Act Analysis

1. As required by the Regulatory Flexibility Act (RFA), n650 the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and [**339] rules proposed in this *Further Notice*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Further Notice* provided above in section VIII. The Commission will send a copy of the *Further Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. n651 In addition, the *Further Notice* and IRFA (or summaries thereof) will be published in the Federal Register.

n650 *See 5 U.S.C. § 603.* The RFA, *see 5 U.S.C. § 601 et seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

n651 *See 5 U.S.C. § 603*(a).

2. *Need for and Objectives of the Proposed Rules.* The Commission is issuing this *Further Notice* to seek public comment on (a) what specific utilization threshold carriers not participating in thousands-block number pooling should [**340] meet in order to request growth numbering resources; (b) whether state commissions should be allowed to set rate-center based utilization thresholds based on criteria that we establish; (c) whether covered CMRS carriers should be required to participate in thousands-block number pooling immediately upon expiration of the LNP forbearance period on November 24, 2002, or whether a transition period should be allowed; and (d) how a market-based allocation system for numbering resources could be implemented. We also seek to obtain the following: (a) cost studies that quantify the incremental costs of thousands-block number pooling; (b) cost studies that quantify shared industry and direct carrier-specific costs of thousands-block number pooling; and (c) cost studies that take into account the cost savings associated with thousands-block number pooling in comparison to the current numbering practices that result in more frequent area code changes.

3. In doing so, we seek to (1) ensure that the limited numbering resources of the NANP are used efficiently; (2) protect customers from the expense and inconvenience that result from the implementation of new area codes; (3) forestall the enormous [**341] expense that will be incurred in expanding the NANP, and (4) ensure that all carriers have the numbering resources they need to compete in the rapidly growing telecommunications marketplace.

4. *Legal Basis.* The proposed action is authorized under sections 1, 4(i) and (j), 201, 208, and 251 of the Communications Act of 1934, as amended. n652

n652 *47 U.S.C. § § 151,* 154(i), 154(j), 201 and 251(e).

5. *Description and Estimate of the Number of Small Entities That May Be Affected by this Report and Order.* The RFA requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." n653 The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." n654 In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. n655 A small business concern is one which: (1) is independently owned and operated; [**342] (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). n656

n653 *5 U.S.C. § 605*(b).

n654 *Id.* § 601(6).

n655 *Id.* § 601(3) (incorporating by reference the definition of "small business concern" in Small Business Act, *15 U.S.C. § 632).* Pursuant to *5 U.S.C. § 601*(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

n656 Small Business Act, *15 U.S.C. § 632.*

6. In this IRFA, we have considered the potential impact of this *Further Notice* on all users of telephone numbering resources. The small entities possibly affected by these rules include wireline, wireless, and other entities, as described in Appendix B. The SBA has defined [**343] a small business for Standard Industrial Classification (SIC) categories 4,812 (Radiotelephone Communications) and 4,813 (Telephone Communications, Except Radiotelephone) to be small entities having no more than 1,500 employees. n657 In the FRFA to the *Universal Service Order*, we described and estimated in detail the number of small entities that would be affected by the new universal service rules. n658 Although some affected incumbent local exchange carriers (ILECs) may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition are not "small entities" or "small business concerns" under the RFA. Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small ILECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small ILECs within this analysis and use the term "small ILECs" to refer to any ILECs that arguably might be defined by the SBA as "small business concerns." n659 [**344]

n657 13 C.F.R. § 121.201.

n658 Federal-State Joint Board on Universal Service, *Report and Order, CC Docket No. 96-45, 12 FCC Rcd 8776, 9227-9243 (1997)* (*Universal Service Order*), as corrected by Federal-State Joint Board on Universal Service, *Erratum*, CC Docket No. 96-45, FCC 97-157 (rel. June 4, 1997), *appeal pending sub nom. Texas Office of Public Utility Counsel v. FCC and USA*, No. 97-60421 (5th Cir. 1997).

n659 *See* 13 C.F.R. § 121.201, SIC code 4813. Since the time of the *Local Competition* decision, *11 FCC Rcd 15499, 16144-45 (1996), 61 FR 45476* (Aug. 29, 1996), the Commission has consistently addressed in its regulatory flexibility analyses the impact of its rules on such ILECs.

7. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Carrier Locator: Interstate Service Providers Report (Locator)*. n660 These carriers include. *inter alia*, local exchange carriers, competitive local [**345] exchange carriers, interexchange carriers, competitive access providers, satellite service providers, wireless telephony providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

n660 FCC, Carrier Locator: Interstate Service Providers at 1-2. This report lists 3,604 companies that provided interstate telecommunications service as of December 31, 1997 and was compiled using information from Telecommunications Relay Service (TRS) Fund Worksheets filed by carriers (Jan. 1999).

8. *Total Number of Companies Affected.* The U.S. Bureau of the Census (Census Bureau) reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. n661 This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, personal communications services providers, covered specialized mobile radio providers, and resellers. n662 It seems certain that [**346] some of those 3,497 telephone service firms may not qualify as small entities or small ILECs because they are not "independently owned and operated." n663 For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small ILECs that may be affected by the proposed rules, if adopted.

n661 U.S. Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1-123 (1995) *(1992 Census)*.

n662 A description of the effected entities are list in the Final Regulatory Flexibility Act Analysis, Appendix B.

n663 *See generally 15 U.S.C. § 632*(a)(1).

9. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* n664 This *Further Notice* requests comment and cost studies (1) that quantify the incremental costs of thousands-block number pooling; n665 (2) that quantify shared industry and direct carrier-specific [**347] costs of thousands-block number pooling; and (3) that take into account the costs savings associated with thousands-block number pooling in comparison to the current number practices that result in more frequent area code changes. n666

n664 *See Notice, 14 FCC Rcd at 10433,* for an Initial Paperwork Reduction Act analysis.

n665 *See supra* P193.

n666 *See supra* P213.

11. *Recordkeeping.* None.

12. *Other Compliance Requirements.* None.

13. *Steps taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.* We have stated that section 251(e) does not exclude any class of carriers and that all telecommunications carriers must bear numbering administration costs on a competitively neutral basis. n667 Therefore, we find that section 251(e)(2) requires us to ensure that the costs of numbering administration, including thousands-block number pooling, do not affect the ability of carriers to compete. As such, the costs of thousands-block number pooling should not give one provider an appreciable, incremental cost advantage over another when competing for a specific subscriber; and should not [**348] have a disparate effect on competing providers' abilities to earn a normal return. n668

n667 *Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11731.*

n668 *See supra* P194.

14. *Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules.* None.

Appendix D

List of the Parties

Comments - In addition to the parties listed below, the Commission also considered the comments, including e-mails, postcards and other correspondence, from over 3,000 citizens in this matter.

1. Adamson, Grier
2. Ad Hoc Telecommunications Users Committee (Ad Hoc)
3. AirTouch Communications, Inc. (AirTouch)
4. Ameritech
5. Arsinow, Richard A.
6. Arvanitas, Ms. Peggy
7. Association for Local Telecommunications Services (ALTS)
8. AT&T Corporation (AT&T)
9. Bartel, Richard C., and Communications Venture Services, Inc. (Venture Services)
10. Bell Atlantic
11. BellSouth Corporation (BellSouth)
12. Burrows Resource Group Inc. (BRG)
13. Cablevision Lightpath, Inc. (Cablevision)
14. California Public Utilities Commission (California Commission)
15. Campbell, Bill - California Assemblyman 71<st> District, letter to Congressman James E. Rogan
16. Carlson, Douglas F.
17. Cellular Telecommunications Industry Association (CTIA)
18. Chambers, Rose A.

19. Cincinnati Bell Telephone Company (CinBell)
20. Citizens Utility Board, People of the State of Illinois, Cook County State's Attorney's Office, and the City of Chicago (Citizens Util. Bd., et al.)
21. Cohen, Marsha N.
22. Colpitts, Robert M., Jr.
23. Colorado Public Utilities Commission (Colorado Commission)
24. Connect Communications Corporation (Connect)
25. Connecticut Department of Public Utility Control (Connecticut Commission)
26. Cox Communications, Inc. (Cox)
27. Eyre, Richard
28. Florida Public Service Commission (Florida Commission)
29. Gethard, Elaine Meitus
30. GTE Service Corporation (GTE)
31. Illinois Chapter of National Emergency Number Association (INENA)
32. Joint Comments of Choice One Communications, Inc., and GST Telecommunications, Inc. (Choice One and GST)
33. Joint Comments of Centennial Cellular Corporation; Centurytel Wireless, Inc.; Thumb Cellular, Limited Partnership; and Trillium Cellular Corp. (Centennial, et al.)
34. Joint Comments of Texas Office of Public Utility Counsel and National Association of State Utility Consumer Advocates (Texas Public Util. Counsel and NASUCA)
35. Level 3 Communications, Inc. (Level3)
36. Liberty Telecom LLC (Liberty)
37. Maine Public Utilities Commission (Maine Commission)
38. Maydak, Keith
39. Massachusetts Department of Telecommunications and Energy (Massachusetts Commission)
40. MCI WorldCom, Inc.
41. MediaOne Group, Inc.
42. Minnesota Department of Public Service (Minnesota Commission)
43. Missouri Public Service Commission (Missouri Commission)
44. Mitretek Systems, Inc.
45. Mobility Canada
46. Mohlenbrok, Gerald
47. National Association of Regulatory Utility Commissioners (NARUC)
48. National Emergency Number Association (NENA)
49. National Exchange Carriers Association (NECA)
50. National Telephone Cooperative Association (NTCA)
51. Neill, Professor Bill
52. New Hampshire Public Utilities Commission (New Hampshire Commission)
53. New Jersey Board of Public Utilities (New Jersey Commission)
54. Newman, Vicky
55. New York State Department of Public Service (New York Commission)
56. Nextel Communications, Inc. (Nextel)
57. Nextlink Communications, Inc. (Nextlink)
58. Nilsen, Beate
59. North American Numbering Plan Administrator (NANPA)
60. North American Numbering Council (NANC)
61. North Carolina Utilities Commission (North Carolina Commission)
62. Omnipoint Communications, Inc. (Omnipoint)

63. Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)
64. Paging Network, Inc.
65. Pennsylvania Office of Consumer Advocate and NASUCA (Pennsylvania Consumer Advocate and NASUCA)
66. Pennsylvania Public Utility Commission (Pennsylvania Commission)
67. Personal Communications Industry Association (PCIA)
68. Prichard, Douglas R. City of Rolling Hills Estates City Manager
69. PrimeCo Personal Communications, L.P. (PrimeCo)
70. Public Service Commission of Wisconsin (Wisconsin Commission)
71. Public Utilities Commission of Ohio (Ohio Commission)
72. Public Utility Commission of Texas
73. Qwest Communications Corporation (Qwest)
74. Ravizza, Norman
75. RCN Telecom Services, Inc.
76. REC Networks
77. Rogers Cantel, Inc.
78. Saco River Telegraph & Telephone Co.
79. Salva, Carol
80. SBC Communications, Inc. (SBC)
81. Small Business Alliance for Fair Utility Regulation (Small Business Alliance)
82. Solnit, Kenneth T.
83. Sprint Corporation (Sprint)
84. Sullivan, Mr. Michael A.
85. Texas Advisory Commission State Emergency Communications
86. Texas Office of Public Utility Counsel
87. Time Warner
88. Thro, Dennis
89. United States Telephone Association (USTA)
90. U S West Communications, Inc. (U S West)
91. Virginia State Corporation Commission, Division of Communications
92. VoiceStream Wireless Corp. (VoiceStream)
93. WinStar Communications, Inc. (WinStar)
94. Yablon, Gilbert (Smart Dialing Systems)
95. Zamzow, Norma

Reply Comments

96. Ad Hoc Telecommunications Users Committee (Ad Hoc)
97. AirTouch Communications, Inc.
98. Allegiance Telecom, Inc.
99. Ameritech
100. Association for Local Telecommunications Services (ALTS)
101. Association of Public-Safety Communications Officials-International, Inc. and the National Emergency Number Association (NENA)
102. AT&T Corporation
103. Bell Atlantic
104. BellSouth Corporation
105. California Public Utilities Commission and the People of the State of California
106. Cellular Telecommunications Industry Association (CTIA)
107. Century Tel, Inc.

108. Cincinnati Bell Telephone Company
109. Colorado Numbering Task Force
110. Competitive Telecommunications Association (CompTel)
111. Connect Communications Corporation (Connect)
112. Cook County State's Attorney's Office
113. Cox Communications, Inc.
114. Florida Public Service Commission
115. GTE Service Corporation
116. INENA (Illinois chapter of National Emergency Number Association)
117. Joint Reply Comments of Choice One Communications, Inc., and GST Telecommunications, Inc.
118. Level 3 Communications, Inc.
119. Levine, Richard
120. Maine Public Utilities Commission
121. MCI WorldCom, Inc.
122. MediaOne Group, Inc.
123. National Emergency Number Association (NENA)
124. National Exchange Carriers Association, Inc. (NECA)
125. National Telephone Cooperative Association (NTCA)
126. Neill, Professor Bill
127. New York State Department of Public Service
128. Nextel Communications, Inc.
129. Nextlink Communications, Inc.
130. Omnipoint Communications, Inc.
131. Pennsylvania Office of Consumer Advocate and National Association of State Utility Consumer Advocates (NASUCA)
132. Pennsylvania Public Utility Commission
133. Personal Communications Industry Association (PCIA)
134. Public Service Commission of Wisconsin
135. RCN Telecom Services, Inc.
136. SBC Communications, Inc.
137. Small Business Alliance for Fair Utility Regulation
138. Sprint Corporation
139. Telcordia Technologies, Inc.
140. Teligent, Inc.
141. United States Telephone Association (USTA)
142. WinStar Communications, Inc.

[**349]

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BEFORE THE FLORIDA PUBLIC SERVICE

COMMISSION

In re: Number Utilization Study: DOCKET NO. 981444-TP
Investigation into Number ORDER NO. PSC-00-0543-PAA-TP
Conservation Measures. ISSUED: March 16, 2000

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman J. TERRY DEASON SUSAN F. CLARK E. LEON JACOBS, JR. LILA A. JABER

- NOTICE OF PROPOSED AGENCY ACTIONORDER

ESTABLISHING INTERIM NUMBER CONSERVATION MEASURES FOR AREA CODES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, *Florida Administrative Code.*

I. BACKGROUND

On April 2, 1999, this Commission filed a petition with the Federal Communications Commission (FCC) seeking authority to implement number conservation measures, which would help minimize consumer confusion and expenses associated with imposing new area codes too frequently. On September 15, 1999, the FCC issued an Order granting the Commission's Petition for Delegation of Additional Authority to Implement Number Conservation Measures. (FCC 99-249) In its Order (Florida Order), the FCC granted the Commission interim authority to·

Attachment 3

1) Reclaim unused and reserved NXX[1] codes;

[1]NXX is an acronym referring to the first three digits of a telephone number, also known as a prefix or central office code. 2) Institute thousand-block number pooling (1KNP) by all LNP[2]-capable carriers in Florida;

3) Maintaining rationing procedures for six months following area code relief;

4) Set numbering allocation standards;

5) Request number utilization data from all carriers;

6) Implement NXX code sharing; and

7) Implement rate center consolidation.

At our February 29, 2000, Agenda Conference, a number of concerns were raised by the industry and the North American Numbering Plan Administrator (NANPA) regarding our staff's recommendation to implement various portions of the FCC's Order. These concerns are addressed below.

II. NXX CODE RECLAMATION

In the FCC's Florida Order at ¶ 22, the FCC stated:

> Reclaiming NXX codes that are not in use may serve to prolong the life of an area code, because these codes are added to the total inventory of assignable NXX codes in the area code. Therefore, we grant authority to the Florida Commission to investigate whether code holders have activated NXXs assigned to them within the time frames specified in the CO Code Assignment Guidelines, and to direct the NANPA to reclaim NXXs that the Florida Commission determines have not been activated in a timely manner. This authority necessarily implies that the Florida Commission may request proof from all code holders that NXX codes have been "placed in service" according to the CO Code Assignment Guidelines. We further direct the NANPA to abide by the Florida Commission's determination to reclaim an NXX code if the Florida Commission is satisfied that the code holder has not activated the code within the time specified by the CO Code Assignment Guidelines.

We recognize the importance of reclaiming unused and reserved NXXs to prolong the life of an existing area code. As shown above, the FCC granted the Commission authority to investigate whether code holders have activated NXX codes assigned to them within the time frames specified in the Central Office (CO) Code Assignment Guidelines developed by the INC. Under the CO Code Assignment Guidelines, carriers are obligated to submit to the NANPA within six months of the requested effective date of newly obtained NXX codes a Part 4 certification that the code has been placed in service.

These guidelines (INC 95-0407-008, dated January 2000) also explain how the numbering administrator would reclaim the unused NXX codes. According to these guidelines, the code holder would return the NXX codes to the administrator if: (1) it is no longer needed by the entity for the purpose for which it was certified and assigned; (2) the service it was assigned for is disconnected; or (3) the CO Code(s) was (were) not activated within the time frame specified in these guidelines; however, the code holder may

request an extension of the activation time commitment.

Section 8.2.3 of the INC guidelines indicates that code holders must activate the NXX code(s) within six months. If the code is not placed in service, and the code administrator finds a legitimate reason for the code not being in service, then the code administrator may extend the date to activate the code by up to three months. Therefore, in the worst scenario, it takes nine months to activate an NXX code. We believe this time is excessive in that an area code or area codes might go into jeopardy if all code holders act in a similar fashion.

[2]LNP (Local Number Portability) is a service that provides residential and business customers with the ability to retain, at the same location, their existing local telephone numbers when switching from one local telephone service provider to another. We believe that the reclamation of NXXs from all code holders would extend the lives of area codes in Florida. Recently, in this docket, our staff conducted a major number utilization study of all code holders in Florida, to assess the way telephone numbers are used. Most code holders responded to the data request. A part of this analysis indicated that the life of the majority of area codes in Florida could be extended using NXX reclamation.

For example, the chart below provides the number of available NXXs with no contamination in the NPAs that we approve for 1KNP:

Area Code	Number of Available NXXs with Zero Contamination
561	33
904	17
954	18

If the NXXs indicated above are reclaimed, we estimate that the life of these NPAs would be extended as follows:

Area Code	Current Exhaust Date	Extended Exhaust Date
561	October, 2002	April, 2003
904	April, 2002	July, 2002
954	July, 2002	October, 2002

We note that the above estimates for the 954, 561, and 904 area codes, which are currently in extraordinary jeopardy, are based on the assumption that the current rationing procedures are maintained.

Our staff contacted NANPA to find out when the NXX codes were activated and was informed that NANPA did not keep such records once the NXX codes are activated. Based on this, we would not be able to determine if the NXX codes have been activated in a timely manner. Therefore, we believe that NANPA should have the responsibility to determine activation dates using the Local Exchange Routing Guide (LERG).

With regard to number reclamation, we find that it is in the best interest of the state to ensure that sufficient number resources are available to all carriers and customers of those carriers. One means to this end is to periodically verify the activation status of NXX codes that have been assigned to carriers. If an NXX code has not been activated within six months of its assignment date, as is prescribed in the Industry Numbering Committee's Central Office Code (NXX) Assignment Guidelines (INC 95-0407-008), the FCC has provided Florida with the authority to direct NANPA to reclaim that code.

Based on the authority granted us in the FCC's Florida Order, we order the immediate return of all unused and reserved NXX codes by all carriers in the 954, 561, and 904 area codes based on Industry Numbering Committee's Central Office Code (NXX) Assignment Guidelines (INC 95-0407-008). In addition, we direct the NANPA to provide monthly LERG reports by area code, including the code assignment and activation dates, to us. We direct our staff, after it evaluates the reports, to contact NANPA to reclaim unused and reserved NXXs in all of Florida NPAs from all carriers who have not met the applicable INC 95-0407-008 guidelines as presented above.

We have identified the existence of 33 uncontaminated NXXs in the 561 NPA, 18 NXXs in the 954 NPA, and 17 NXXs in the 904 NPA. We direct our staff to undertake immediate steps to obtain the requisite information necessary to verify the activation date of these codes and to request a meeting with any company to determine the status of their codes.

We believe that the reclamation of all unused and reserved NXX codes from all carriers in the 954, 561, and 904 NPAs will extend the life of these area codes which are currently in extraordinary jeopardy and the subject of dockets opened to determine an appropriate area code relief plan. In addition, these returned codes will serve to establish a pool of thousands-blocks for use in a 1KNP trial. Implementation of 1KNP is discussed later in our Order.

III. MANDATORY IMPLEMENTATION OF THOUSAND BLOCK POOLING

LNP was initially mandated by Congress to promote local competition. However, once the LNP infrastructure is in place, it can be used to increase the efficiency by which carriers utilize telephone numbers. Specifically, the LNP platform can be used to support "number pooling."

Pooling enables telephone numbers to be allocated to carriers in smaller, more efficient, portions. Thousand-block number pooling allows 10 different carriers to utilize numbering resources from one NXX. When coupled with reclamation, 1KNP may significantly reduce the extent to which numbering resources are "stranded" in the network.

In its petition and reply comments to the FCC, the Commission stated that all carriers must have reasonable access to numbering resources in order to compete effectively in the telecommunications markets. Further, number conservation measures do not hinder reasonable access to numbering resources. On the contrary, they protect the resource for all market participants. Requiring the distribution of NXXs at thousand-block levels still provides equitable, efficient, and timely access to all carriers. Number conservation measures would not adversely affect call routing in the nation; would not place some carriers at risk; and would not delay area code implementation during a jeopardy period. Number conservation measures such as 1KNP would provide equal access to all numbering resources.

We agree with the FCC (FCC's notice of proposed rulemaking order FCC 99-122, ¶ 1) that any measure that increases the efficiency with which numbers are utilized will result in significant consumer benefits, by helping to alleviate the disruption and expense associated with frequent area code exhaust. Due to these urgent reasons, the FCC delegated authority to Florida and other state commissions in late 1999.

In its notice of proposed rulemaking docket (FCC 99-122, ¶ 14), the FCC states:

> Equally importantly, numbering resource optimization efforts are necessary to address the considerable burdens imposed on consumers by the inefficient administration of numbering resources. Consumers face additional costs, both tangible and intangible, when a new area code is implemented in their local area. We believe that consumers should not be subjected to these increased costs and inconveniences except when absolutely necessary.

Our staff conducted a workshop on October 20, 1999, wherein our staff, the industry, the Office of Public Counsel, and an interested person formed a Steering Committee (committee) to develop a working solution. The committee formed five working groups:

1) Thousand-block number pooling;

2) Rate center consolidation;

3) Code sharing;

4) Short-term efficiency measures; and

5) Legal issues.

The 1KNP group met several times in the last two months to find workable solutions. The pooling group agreed to recommend mandatory implementation of 1KNP in Florida. Our staff provided the pooling group with its analysis on number utilization.

The group examined each area code for any possible pooling implementation. Criteria for selecting the area codes were established since it was not easy to select an area code or area codes. First, the group tried to select an area code in which it was simpler to implement the first pooling mechanism. Second, the group examined the area codes which had fewer exchanges, and a considerable number of vacant NXXs and thousand blocks. Last, the group considered the degree of alternative local exchange (ALEC) competition in the area codes. The 1KNP group has also started working on cost recovery mechanisms. However, we believe that the cost issues should be addressed within a later proceeding after the FCC's final numbering order is issued.

The pooling group developed a priority list of area codes using the criteria the group developed. As a result, the pooling group selected the 954, 561, and 904 area codes for 1KNP implementation:

The FCC's Florida Order (FCC 99-249, ¶ 21) states:

> We reiterate that the authority we grant herein to the Florida Commission to undertake thousands-block pooling trials is interim in nature, and is in no way intended to relieve the Florida Commission of its obligation to implement necessary area code relief in a timely fashion.

Therefore, based on the FCC's Order, we shall establish relief mechanisms for the area codes in which 1KNP will be mandated. We note that the time needed to implement an overlay relief plan is approximately 90 days. The time needed to implement a geographic split plan or a combination of several relief mechanisms is usually at least six to 12 months. We believe that one of the alternatives proposed in the pending area code dockets could be used to provide relief.

In conclusion, based on the pooling group's decision made on February 4, 2000, we find it appropriate to order, on an interim basis, the mandatory implementation of 1KNP for all LNP-capable carriers in the 954, 561, and 904 area codes. One of the alternatives proposed for the 954, 561, and 904 area code dockets shall be used as a backup plan to provide relief, pending completion of those evidentiary proceedings. Dockets Nos. 990457-TL, Request for Review of Proposed Numbering Relief Plan for the 954 Area Code; 990456-TL, Request for Review of Proposed Numbering Relief Plan for the 561 Area Code; and 990517-TL Request for Review of Proposed Numbering Relief Plan for the 904 Area Code.

1KNP enables telephone numbers to be allocated to carriers in more efficient 1,000 number blocks, instead of the existing 10,000 number block system. 1KNP allows ten different carriers to utilize numbering resources from one NXX. When coupled with the reclamation of unused and reserved NXXs, 1KNP has the potential to significantly reduce the extent to which numbering resources go grossly underutilized. Requiring the distribution of NXXs at the 1000s-block level still provides equitable, efficient and timely access to numbering resources by all carriers as required by FCC regulations. Therefore, we find that the implementation of 1KNP for all LNP-capable carriers in the 954, 561, and 904 area codes on a staggered basis is consistent with the Florida Order and is in the best interest of the state.

With regard to the implementation of 1KNP, we recognize that the carriers in the affected area codes desire to use software release version 3.0. However, we believe that waiting until version 3.0 becomes operational will be detrimental to the overall effectiveness of 1KNP in forestalling the need for area code relief. The FCC requires that numbering resources be made available to all carriers on an equitable and timely basis. If we reclaim the unused NXXs immediately in order to avoid number block contamination, but do not begin 1KNP until 2001, the earliest start for version 3.0, carriers will still be able to obtain a full code due to NXX rationing in the affected area codes. 1KNP would, at a minimum, provide more carriers with greater access to the numbering resources.

Therefore, we order that all LNP-capable carriers in the 954, 561, and 904 NPAs to begin implementation of 1KNP according to the schedule set forth below:

Area Code (NPA)	Software Release	Implementation Date
954	1.4	May 1, 2000
561	1.4	July 1, 2000
904	3.0	October 1, 2000

IV. CRITERIA TO OBTAIN INITIAL NUMBERING RESOURCES

Paragraph 33 of FCC Order 99-249 sets forth the FCC's concerns regarding the establishment of fill rates or other criteria for new entrants. Specifically, the FCC stated:

> First, the Florida Commission may only consider a carrier's fill rate in relation to growth codes. We do not believe that a carrier's ability to establish a service "footprint" should be restricted. That is, a carrier ought to be able to obtain initial numbering resources in rate centers where the carrier is authorized to offer service and plans to do so within the NXX activation time frame (sic) established by the CO Code Assignment Guidelines (six months). We wish to avoid imposing barriers to competitive entry into the telecommunications marketplace.

As the number of new entrants in Florida has increased, the demand for NXX codes in many of Florida's NPAs, especially in the metropolitan areas, has increased causing the supply of NXXs to be depleted much sooner than anticipated. We believe that the number of initial numbering requests that are granted could be reduced if some basic changes were made to the NXX application process.

At present, the process by which carriers request numbering resources in order to begin offering service in a particular rate center is based in part on the successful completion and submission of a Code Request Form. However, section 6.1.2 of the INC Central Office Code (NXX) Assignment Guidelines also states: ". . .It should be noted that interconnection arrangements and facilities need to be in place prior to activation of a code. Such arrangements are outside the scope of these guidelines."

Currently, section 6.1.4 of the INC Central Office Code (NXX) Assignment Guidelines states:

> The code applicant shall certify on the Code Request Form that to the best of his/her knowledge necessary governmental/regulatory authorization has been obtained to provide service(s) for which the code is being requested.

We believe that reliance on "certified" statements does not provide a sufficient factual basis to demonstrate compliance with the governmental approval provision. Mandatory inclusion of actual interconnection documentation would create a minimal administrative and financial burden on the applicant when submitting the Code Request Form. Therefore, we find that a copy of an approved interconnection agreement shall be included as part of any carrier's initial numbering request.

Similarly, we believe that all carriers should be required to submit, as part of their Code Request Form, a written statement detailing the type(s) of equipment that is or will be installed in the rate center that is capable of providing "facilities readiness" within the NXX activation time frame of six months. We define facilities readiness as having the requisite equipment in place to allow a carrier to activate a telephone number such that the customer assigned to that specific number is able to make and receive calls over the public switched network. We believe that there would be minimal impacts on the applicant in terms of complying with this requirement.

Therefore, in addition to completing all the required entries on a Code Request Form, as required by the INC Central Office Code (NXX) Assignment Guidelines, we shall require that all carriers provide the following additional information to substantiate their request for initial numbering resources: 1) an approved interconnection agreement with the ILEC; and 2) facilities readiness within the NXX activation time frame of six months. Facilities readiness shall be defined as having the requisite equipment in place to allow a carrier to activate a telephone number such that the customer assigned to that specific number is able to make and receive calls over the public switched network.

The existence of at least 68 potentially returnable NXX codes within the 954, 561, and 904 area codes is particularly troubling to this Commission given the extraordinary jeopardy status of these three area codes. The information gathered in this proceeding does not state how many of these 68 NXXs are initial numbering requests. However, we have serious reservations regarding the practical validity of an industry-developed numbering resource application process that allows NXXs to remain inactive for up to nine months while some carriers are restricted in their efforts to obtain numbering resources due to NXX rationing brought on by premature area code exhaust.

Further, we note that the existing industry central office code assignment guidelines do not require the submission of any evidence to substantiate the ability of an applicant to provide service (i.e., facilities readiness) or to support the existence of an approved interconnection agreement. The guidelines only require that an applicant self-certify that authorization has been granted to provide service. We find this lack of verifiable data collection to be deficient. Therefore, we order that all carriers seeking numbering resources comply with the following procedure.When a carrier completes all the required entries on a Code Request Form (CFR), as required by the INC Central Office Code (NXX) Assignment Guidelines and forwards that CFR to NANPA for processing, all carriers shall also provide to the Commission the following additional information to further substantiate their request for initial numbering resources: 1) an approved interconnection agreement with the incumbent local exchange company (ILEC); and 2) facilities readiness within the NXX activation time frame of six months. Facilities readiness shall be defined as having the requisite equipment in place to allow a carrier to activate a telephone number such that the customer assigned to that specific number is able to make and receive calls over the public switched network.

With respect to the FCC's concern that Florida not restrict a carrier's ability to obtain initial numbering resources, we do not believe that these requirements constitute a barrier to entry into the telecommunications marketplace. We believe that these requirements may result in a more equitable assignment of initial numbering resources than the current Guidelines. In our opinion, an approved interconnection agreement and a statement of facilities readiness are two easily verifiable conditions that should be considered when a request is made for initial numbering resources. We direct our staff to work with NANPA to establish a means to coordinate the verification of such data in a manner that does not limit NeuStar's, the numbering plan administrator, timely processing of numbering requests or cause any undue burden on the applicant.

However, at the same time, we find it very disturbing that the company, i.e., NeuStar, Inc., hired to be the national numbering administrator claims that it is contractually and administratively incapable of accepting or retaining at its offices any information that is not explicitly defined in the industry's code assignment guidelines.

V. THOUSAND-BLOCK NUMBER MANAGEMENT REQUIREMENTS

During our February 29, 2000, Agenda Conference, industry representatives argued that the proposed 1000s-block management requirements and overall NXX utilization rate of 75% would be very difficult to comply with and administer given the specific numbering issues facing each carrier. For example, BellSouth stated that it routinely keeps a number of blocks open at the same time in order to accommodate the needs of residential, business, and specialized PBX-type customers.

As an alternative, the industry proposed the mandatory adoption by all carriers of the terms and conditions of the industry's Stipulation and Voluntary Number Conservation Measures that was acknowledged by the Commission in Order No. PSC-99-1393-S-TP, issued July 20, 1999. This document was filed relative to Docket No. 990373-TP, Establishment of a Statewide Emergency Area Code Relief Plan. Below is a summary of the provisions relating to thousand block number management contained in the industry's stipulation:

> 1. Uncontaminated 1000s number blocks will be set aside and the service providers will maintain no greater than nine months of 1000s block telephone number resources to meet customer demand. This type of variable demand analysis allows for the different telephone number demand patterns inherent in different geographic areas and is consistent with current Industry Numbering Committee (INC) Thousand Block (NXX-X) Pooling Administration Guidelines and Central Office Code Administration Guidelines which employ similar threshold concepts (e.g., months to exhaust). If and when telephone number pooling is implemented, service providers will analyze their inventory of vacant 1000s blocks, as well as any qualified contaminated blocks, for potential contribution to an industry telephone number inventory pool.
>
> 2. Existing national Central Office Code Assignment Guidelines and any Code Jeopardy procedures agreed to by the industry will be followed.
>
> 3. All uncontaminated 1000s blocks will be set aside, where practicable. The term "uncontaminated 1000s blocks" is defined as a block within which all telephone numbers are available for assignment. Resolution Statement of INC Issue 134, Common Number Status (dated April 26, 1999), defines numbers that are unavailable for assignment.
>
> 4. Inventories of available telephone numbers for each rate center or switch, in case of a multiple switch rate center, will not be added to until there is insufficient inventory to meet

nine months of projected customer demand.

5. Numbering resources will be released in 1000s number blocks in order to maintain nine months inventory supply or to meet a specific customer requirement. Examples given for a specific customer request are a particular number series or a bona fide customer request for a specific number.

6. Utilization reports will be submitted by each NXX code holder upon written request of the Commission, not to exceed twice per year. The data to be provided is that submitted in response to a March 22, 1999 data request (from Docket No. 981444-TP). Commercial mobile radio service (CMRS) providers shall provide the information by NXX only; other wireline providers shall provide the information by 1000s number blocks. Confidential classification would be requested for these reports.

Despite the industry's willingness to support mandatory adoption of the Stipulation as expressed at the February 29, 2000, Agenda Conference, we remain concerned that the current industry guidelines with respect to the code request review process are faulty. Current code holders must certify that their numbering resources will exhaust within 12 months. Reliance on months-to-exhaust (MTE) may be appropriate for individual carrier requests for numbering resources, but MTE has not proven particularly accurate in terms of estimating NPA exhaust. Our staff's proposed combination of a 75% fill rate and a six MTE is a step in the right direction. However, we recognize that varying customer needs may make it difficult for some carriers to comply with this proposal. Therefore, as a first step toward improving 1000s block utilization, we order that the terms and conditions of the Voluntary Stipulation be made mandatory for all carriers.

VI. VERIFICATION PROCEDURE

In FCC 99-249, ¶ 2, the FCC stated that its regulations generally require that numbering administration:

> (1) facilitate entry into the telecommunications marketplace by making telecommunications resources available on an efficient and timely basis to telecommunications carriers; (2) not unduly favor or disfavor any particular industry segment or group of telecommunications consumers; and (3) not unduly favor one telecommunications technology over another. Further, our regulations specify that, if the Commission delegates any telecommunications numbering administration functions to any state, the states (sic) must perform the functions in a manner consistent with these general requirements.

If we are to comply with these requirements, it is critical that we have a means to verify and reconcile a carrier's application for numbering resources. If carriers are allowed to obtain numbering resources that subsequently are not activated or are grossly underutilized, all carriers will suffer and new entrants may be denied a legitimate opportunity to compete in a particular rate center due to an inadequate inventory of thousand-blocks or NXXs. This becomes especially important in those NPAs where NXX rationing is in effect.

There are three primary sources of numbering information available to the Commission that could be used to verify numbering resource requests, namely: the utilization data submitted by the code holder; code activation data from the Local Exchange Routing Guide; and, data submitted in response to specific data requests from the Commission. A study of these sources has the potential to verify carrier-specific data and utilization rates as well as identify other numbering discrepancies. Consequently, we believe it is important for us to perform this verification and reconciliation function.

We believe that all requests for numbering resources need not be verified. We believe that sufficient incentive exists through random checks and comparison with other information sources to discourage carriers from filing unwarranted requests for numbering resources. However, if there is apparent abuse, we emphasize that it may be necessary to revise this verification process and modify the code application process. Such revisions could entail the imposition of a penalty for noncompliance with established guidelines; stricter access to new numbering resources; additional reporting requirements for subsequent applications; or stricter thousand-block management of existing resources. However, we are not ordering such changes at this time.

Therefore, we find that we shall verify and reconcile on an as needed basis a) information submitted by carriers to the numbering administrator to substantiate numbering resource requests; b) information available from the LERG; and c) submissions provided in response to data requests from the Commission.

Mr. Brent Struthers, a NeuStar representative, stated that due to contractual limitations with NANPA and internal administrative constraints that it was unable to retain at its offices any additional data in excess of what is currently required by the INC Numbering Guidelines to obtain an initial or growth code. He went on to state that some of the information requested by our staff in its recommendation was not available from the Local Exchange Routing Guide (LERG). We are concerned that NeuStar is unable to perform what we view as a basic function of its numbering role and that is to verify and reconcile carrier data submitted in support of a numbering request.

VI. THOUSAND-BLOCK POOLING SOFTWARE RELEASE AND IMPLEMENTATION DATES

Currently, there are two software releases to implement 1KNP: NPAC[3] Software Release 1.4 (SR14) and NPAC Software Release 3.0 (SR30). The initial purpose of SR14 was in support of a number pooling test trial in Illinois. The main difference between the two releases is the inclusion of Efficient Data Representation (EDR) in SR30 which permits downloading and database storage of 1,000 numbers as a single record instead of 1,000 records. This capability, only available in SR30, was developed to resolve LNP database capacity issues associated with widespread telephone number pooling deployment. For this reason, it is considered to be a critical requirement by many service providers.

The states with delegated pooling authority are required by the FCC to determine cost allocation and recovery mechanisms for 1KNP trials. NANPA states that "Orders to date delegating interim pooling authority did not specify if the states need to complete this task prior to ordering a pooling trial. States can however begin the process for pooling while addressing cost allocation and recovery".

The 1KNP group reached a consensus on recommending SR30 for all 1KNP trials in Florida. We recognize the industry's point of view in recommending SR30 because NeuStar, the current 1KNP administrator for some states, indicated in a prior meeting that SR30 would be available at the end of June of this year. However, NeuStar also indicated that the SR30 trial tests would take about four to six months and if problems arise, there would be more delays in implementing 1KNP. However, we are concerned that any delay in implementation will be problematic because carriers who are not LNP-capable will continue to require assignment of full NXXs even after the implementation of 1KNP. The longer the Commission delays the start of 1KNP, the fewer full NXXs will be available for participating carriers and therefore the quicker the 954, 561, and 904 area codes will exhaust.

We find that Florida cannot wait until SR30 becomes available to begin 1KNP. Other states[4] have already ordered the implementation of SR14 with implementation dates ranging from February 1, 1999 to November 4, 2000. Florida must move forward using the software available to us at this time. We further find that a start date of May 1, 2000, is a reasonable accommodation of the carriers' needs

relating to the modification of their operational support systems (OSSs) and our duty to protect the citizens of Florida from the costs and inconveniences associated with the premature implementation of new area codes.

The FCC states that the state commissions, including Florida, must allow sufficient transition time between 1KNP trials. Specifically, the FCC 99-249 ¶ 19 states:

> After having implemented a thousands-block number pooling trial in one MSA, the Florida Commission may wish to expand to another MSA.[5] Should it wish to do so, we direct the Florida Commission to allow sufficient transition time for carriers to undertake any necessary steps, such as modifying databases and upgrading switch software, to prepare for an expansion of thousands-block pooling to another MSA. In other words, [3]NPAC stands for Number Portability Administration Center. [4]Illinois, New York, California, Maine, New Hampshire, and Texas. [5]A thousands-block pooling trial is implemented when LNP-capable carriers are contributing and receiving numbers in blocks of 1,000 from the pool. Furthermore, for a pooling trial to have been implemented, a pooling administrator must be chosen and responding to requests from carriers for numbering resources. start dates for thousands-block pooling trials in different MSAs should be appropriately staggered to permit the industry to undertake all necessary steps. The purpose of a staggered roll-out is to provide carriers time to upgrade or replace their SCPs and other components of their network, as necessary, if the increased volume of ported numbers as a result of the pooling trial requires them to do so.

We note that the entire 954 area code is in the Ft. Lauderdale MSA. BellSouth states that the entire area is Location Routing Numbers/LNP (LRN/LNP) capable. The 561 area code is in the West Palm Beach MSA which encompasses only Palm Beach County. The Jacksonville MSA, which contains Nassau and Duval Counties, is in the 904 area code. We realize that in the 904 area code, there may be regions or carriers which may not be LNP capable, but given the implementation time frame, all carriers should be able to make the necessary changes.

Therefore, based upon the aforementioned discussion, we find the following software releases and implementation dates for the 954, 561, and 904 area codes to be appropriate:

Area Code (NPA)	Software Release	Implementation Date
954	1.4	May 1, 2000
561	1.4	July 1, 2000
904	3.0	October 1, 2000

We also find that all code holders in the 954, 561, and 904 area codes shall adhere to Number Pooling Inventory Time Line (NPIT) set forth below:

	Area Code (NPA)		
NPIT	954	561	904
Regulatory Mandate	March 3, 2000	March 3, 2000	March 3, 2000
First Implementation Meeting	March 17, 2000	March 31, 2000	April 14, 2000
Forecast /Utilization			

Report	April 3, 2000	April 17, 2000	May 1, 2000
Block Protection Date	April 6, 2000	April 24, 2000	June 5, 2000
Block Donation Identification Date	April 10, 2000	May 8, 2000	June 26, 2000
PA Assessment of Industry Inventory Surplus /Deficiency	April 17, 2000	May 22, 2000	July 17, 2000
Block Donation Date: SP Updates LERG on Donated Blocks	April 21, 2000	June 5, 2000	August 14, 2000
Pool Start / Allocation Date: PA updates LERG on Allocated Blocks	April 28, 2000	June 12, 2000	September 11, 2000
Mandated Implementation Date	May 1, 2000	July 1, 2000	October 1, 2000

VII. DESIGNATION OF A CODE ADMINISTRATOR

In order to implement 1KNP, a neutral third-party administrator must be retained. The North American Numbering Council (NANC) has recommended to the FCC that Communications Industry Services (CIS)/NANPA be named the national 1KNPA. The FCC has yet to act upon the NANC's recommendation. Currently, CIS is administering the 1KNP trials in Illinois and New York. CIS has agreed with NANC to provide pooling administration services pursuant to the terms approved by the NANC in those states that are granted authority by the FCC to implement mandatory 1KNP trials.

Given CIS's experience in serving as the 1KNPA, it is likely that CIS/NANPA will be named the national 1KNPA. However, we believe that the industry should undertake whatever steps are necessary to ensure that a neutral-third party is selected as their Florida 1KNPA. Further, we suggest that the administrator be selected as soon as possible to ensure compliance with this Order.

The FCC's Florida order also required the Commission to implement 1KNP trials according to the industry-adopted 1KNP guidelines. The FCC further provided, however, that the Commission could depart from those guidelines if the Commission deemed it appropriate after first consulting with the industry regarding the implications of any proposed changes (FCC 99-249, ¶ 13).

The FCC, in all of its state orders, indicated that states should work together to develop consistent 1KNP guidelines. As a result of this cooperative effort, the state commissions including Florida filed a letter with the FCC on January 21, 2000, which contained the states' revised version of the INC 1KNP guidelines.

Based on the foregoing, we find that all code holders in the 954, 561, and 904 area codes shall designate a 1KNP administrator for the 954, 561, and 904 area codes in Florida. We also find that all code holders in the 954, 561, and 904 area codes shall utilize the state commissions' revised version of the INC 1KNP Guidelines submitted to the FCC on January 20, 2000 for all 1KNP trials in Florida.

Based upon the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that all carriers shall return immediately all unused and reserved NXX codes in the 954, 561, and 904 area codes based on Industry Numbering Committee's Central Office Code (NXX) Assignment Guidelines (INC 95-0407-008). It is further

ORDERED that the North American Numbering Plan Administrator (NANPA) shall provide monthly Local Exchange Routing Guide (LERG) reports by area code, including the code assignment and activation dates, to this Commission. It is further

ORDERED that on an interim basis, mandatory implementation of 1KNP shall be required for all LNP-capable carriers in the 954, 561, and 904 area codes. One of the alternatives proposed for the 954, 561, and 904 area code dockets (Dockets Nos. 990457-TL (Area Code 954), 990456-TL (Area Code 561), and 990517-TL (Area Code 904)) shall be used as a backup plan to provide relief, pending completion of the evidentiary proceeding. It if further

ORDERED that in addition to completing all the required entries on a Code Request Form, as required by the INC Central Office Code (NXX) Assignment Guidelines, all carriers shall provide the information specified in the body of this Order. It is further

ORDERED that all carriers shall comply with the thousand block number management conservation measures as discussed in the body of this order. It is further

ORDERED that the software and corresponding 1KNP dates for the 954, 561, and 904 area codes shall be implemented as set forth in the body of this Order. It is further

ORDERED that all code holders in the 954, 561, and 904 area codes shall designate a 1KNP Administrator for the 954, 561, and 904 area codes in Florida. It is further

ORDERED that all code holders in the 954, 561, and 904 area codes shall utilize the state commissions' revised version of the INC 1KNP Guidelines submitted to the FCC on January 20, 2000, for all 1KNP trials in Florida. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, *Florida Administrative Code*, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that this Docket shall remain open to address the unresolved issues.

By ORDER of the Florida Public Service Commission this 16th day of March, 2000.

/s/ Blanca S. Bayó BLANCA S. BAYÓ, Director Bureau of Records and Hearing Services.
This is a facsimile copy. A signed copy of the order may be obtained by calling 1-850-413-6770.
(S E A L)
DWC
NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), *Flor ida Statutes*, to notify parties of any administrative hearing that is available under Section 120.57, *Flor ida Statutes*, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, *Florida Administrative Code.* This petition must be received by the Director, Bureau of Records and Hearing Services., 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 6, 2000.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Number Utilization Study: Investigation into Number Conservation Measures.	DOCKET NO. 981444-TP ORDER NO. PSC-00-1046-PAA-TP ISSUED: May 30, 2000

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.
LILA A. JABER

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING OFFER OF SETTLEMENT
AND FINAL ORDER DISMISSING PROTEST AND MAKING FINAL THE
UNPROTESTED PORTIONS OF ORDER NO. PSC-00-0543-PAA-TP

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein regarding approval of the Offer of Settlement is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. BACKGROUND

As part of our ongoing effort to conserve area codes, on April 2, 1999, this Commission filed a petition with the Federal Communications Commission (FCC) seeking authority to implement number conservation measures, which would help minimize consumer confusion and expenses associated with imposing new area codes too frequently.

Attachment 4

On September 15, 1999, the FCC issued Order No. FCC 99-249 granting our Petition for Delegation of Additional Authority to Implement Number Conservation Measures. In its Order, the FCC granted us interim authority to:

(1) Institute thousand-block pooling by all LNP[1]-capable carriers in Florida;
(2) Reclaim unused and reserved NXX codes;
(3) Maintain rationing procedures for six months following area code relief;
(4) Set numbering allocation standards;
(5) Request number utilization data from all carriers;
(6) Implement NXX code sharing; and
(7) Implement rate center consolidation.

At our February 29, 2000, Agenda Conference, we approved portions of our staff's recommendation to exercise the federal authority to conserve telephone numbers and delay the early exhaustion of area codes in Florida. At the Agenda Conference, a number of concerns were raised by the industry and the North American Numbering Plan Administrator (NANPA) regarding our staff's recommendation to implement various portions of the FCC's Order. We voted to require immediate NXX code reclamation for wireline and wireless carriers in all of Florida's Numbering Plan Areas (NPAs), and thousands-block number pooling for wireline carriers in the 954, 561, and 904 area codes, beginning May 1, July 1, and October 1, 2000, respectively. In addition, we established criteria for obtaining initial numbering resources, approved mandatory thousands-block number management procedures, and instituted a process to verify and reconcile numbering resource data available from different sources, all of which are equally applicable to wireline and wireless carriers. On March 16, 2000, Order No. PSC-00-0543-PAA-TP (PAA Order) was issued memorializing this decision.

In response to the PAA Order, a number of Florida code holders (Florida Code Holders Group or FCHG) submitted on March 23, 2000, an explanatory letter and Number Pooling Implementation Plan for the 954, 561, and 904 NPAs. The FCHG filed this plan because they believed that the number pooling implementation time line set forth in the PAA Order was not feasible and that their alternative time line would not materially affect the exhaust lives of the applicable NPAs. In addition, the FCHG sought implementation of thousand-block number pooling using software release version 3.0 (SR30) which we had specifically rejected in our decision set forth in Order No. PSC-00-0543-PAA-TP. The PAA Order scheduled software release 1.4 (SR14) for implementation in the 954 and 561 NPAs on May 1, 2000 and July 1, 2000, respectively.

[1]1.LNP (Local Number Portability) is a service that provides residential and business telephone customers with the ability to retain, at the same location, their existing telephone numbers when switching from one local telephone service provider to another.

On March 31, 2000, our staff held an implementation meeting with NeuStar (the North American Numbering Plan Administrator) and the industry. This meeting was concluded with an understanding among the participants that implementing thousand-block number pooling would take anywhere from 96 to 132 days, plus any upgrades and testing necessary, prior to pooling.

On March 31, 2000, the FCC issued a Report and Order and Further Notice of Proposed Rule Making, (FCC 00-104) in the matter of Number Resource Optimization. We believe that this Order does not affect our delegated authority nor has any party suggested that our authority is affected. In FCC 00-104 at paragraph 4, the FCC addressed the two major factors that contribute to number resource exhaustion:

> the absence of regulatory, industry, or economic control over requests for numbering resources, which permits carriers to abuse the allocation system and stockpile numbers, and the allocation of numbers in blocks of 10,000, irrespective of the carrier's actual need for new numbers.

In addition, the FCC addressed other number conservation measures, as well as issues related to the future implementation of thousand-block number pooling on a national basis.

On April 6, 2000, a formal protest of Commission Order No. PSC-00-0543-PAA-TP was filed by a number of parties[22] (Joint Petitioners). Specifically, the Joint Petitioners protested and sought a hearing regarding only the portions of the PAA order that related to: (1) mandatory implementation of thousand-block pooling; (2) thousand-block pooling software release and implementation dates; and (3) designation of a pooling administrator. The remaining portions of the PAA Order were not protested by the Joint Petitioners. Thus, those portions are deemed stipulated pursuant to Section 120.80(13)(b), Florida Statutes.

In addition, on April 6, 2000, Ms. Peggy Arvanitas filed

[22] ALLTEL Communications, Inc.; AT&T Communications of the Southern States, Inc.; AT&T Wireless Services, Inc.; BellSouth Mobility, Inc.; BellSouth Telecommunications, Inc.; Florida Cable Telecommunications Association; Global NAPs, Inc.; GTE Service Corporation; Intermedia Communications; MCI WorldCom, Inc; Media One Communications; Florida Telecom, Inc.; Sprint Spectrum Ltd., d/b/a Sprint PCS; Sprint Communications Company Ltd Partnership; Sprint-Florida, Inc.; Time Warner Telecom of Florida, L.P.; Trivergent Communications, Inc.

comments responding to the informal Florida NXX Code Holders Group and protested a portion of the PAA Order. In particular, she addressed (1) Number pooling conference call conversations /format/impressions; (2) Short term conservation measures - utilization thresholds; (3) Porting/pooling - equipment understanding for cost allocation; and (4) Voluntary stipulation in Docket No. 990373-TP as being out of order, rulemaking necessary.

On April 11, 2000, the Joint Petitioners filed an Offer of Settlement to Resolve the Number Pooling Implementation Protest of our PAA Order. The Offer of Settlement addresses many of the same issues set forth in the Florida NXX Code Holders Group's Number Pooling Implementation Plan for the 954, 561, and 904 NPAs. The Offer of Settlement is attached to this Order as Attachment A and by reference incorporated herein.

On April 13, 2000, Ms. Arvanitas filed a clarification to her original filing stating that she is "Protesting and challenging the industry's protest to number pooling." She raised concerns regarding utilization thresholds, Industry Numbering Council guidelines, SR14 software implementation, cost recovery, access to numbering resources, and the need to go to rulemaking pursuant to Order No. PSC-99-1393-S-TP, issued in Docket No. 990373-TP. Ms. Arvanitas raised her points with respect to the prior plan proposed by the Joint Petitioners and submitted on March 23, 2000. Ms. Arvanitas was emphatic that she opposed the Joint Petitioners' protest of Order No. PSC-00-0543-PAA-TP, and she did not believe their revised plan was acceptable for the reasons set forth in her letter. While portions of Ms. Arvanitas' filings are apparently a Protest of our PAA Order, the remaining portions are a response to the Offer of Settlement. We address Ms. Arvanitas' Protest in a separate section of this Order.

On April 16, 2000, the Joint Petitioners filed an additional provision to their Offer of Settlement (herein after referred to as the Revised Plan) stating that they will implement SR14 if SR30 is not available by the specified dates. See Attachment B which is attached to this Order and by reference incorporated herein. This provision was prompted by an e-mail from NeuStar stating that a 21-day delay in delivery of SR30 is expected.

II. PROTEST BY MS. ARVANITAS

As previously stated, on April 6, 2000, Ms. Peggy Arvanitas filed comments responding to the March 23, 2000, letter of the

Florida NXX Code Holders Group and in regards to the PAA Order to "clarify issues, clear up misunderstanding, and shed light on the Task Force Subcommittees." On April 13, 2000, Ms. Arvanitas filed a follow-up document to her April 6th filing stating she was "protesting and challenging the industry's protest to number pooling."

Upon thorough review of Ms. Arvanitas' filings, we find that certain issues raised by Ms. Arvanitas' are a Protest to the PAA Order. The issues Ms. Arvanitas addresses in this regard are the voluntary conservation measures acknowledged in Order No. PSC-99-1393-S-TP that were required to be mandatory for all carriers and utilization thresholds.

Argument

Ms. Arvanitas appears to argue that we are required by Order No. PSC-99-1393-S-TP to go to rulemaking on area code. conservation measures rather than mandate compliance by all carriers with the voluntary measures acknowledged in that Order. Ms. Arvanitas argues that the nine-month inventory criteria was "as vague as the [months-to-exhaust] schedule." She recommends that the Commission go to rulemaking "like we are supposed to and define the voluntary stipulation."

Ms. Arvanitas also discussed utilization thresholds. Ms. Arvanitas' arguments on utilization thresholds or "fill rates" appear to relate to the area code conservation measures that we mandated in the PAA Order and, therefore, are addressed as part of Ms. Arvanitas' Protest to the PAA Order. Ms. Arvanitas states that Bellcore, when it was the NANPA administrator, used fill rates as a measurement [of utilization], but that today the months-to-exhaust formula is now used which "is a projection of need, and does not deal with actual usage." Ms. Arvanitas states in her April 13th filing that "utilization thresholds are a more exact measurement of usage." She also complains that NANPA certifies, but does not verify the numbers on switches.

Ms. Arvanitas argues that the reason BellSouth does not accept fill rates is because their "switches will not be able to handle as high of a fill rate, or number assignment on the 10,000 number NXX's wired." She asserts that cable companies can and suggests that BellSouth upgrade their wiring and switches. She concludes by stating that "[w]e don't have a number inefficiency, we have equipment inefficiency."

Conclusion

Upon careful review of Ms. Arvanitas' filings, we hereby dismiss, on our own motion, her Protest of the mandatory conservations measures for failure to state a claim for which relief can be granted. A motion to dismiss raises as a question of law whether the petition alleges sufficient facts to state a cause of action. Varnes v. Dawkins, 624 So. 2d 349, 350 (Fla. 1st DCA 1993). Varnes describes the standard for disposing of motions to dismiss as whether, with all allegations in the petition assumed to be true, the petition states a cause of action upon which relief may be granted. Id. When making this determination, the tribunal must consider only the petition. All reasonable inferences drawn from the petition must be made in favor of the petitioner. Id.

In order to determine whether the petition states a cause of action upon which relief may be granted, it is necessary to examine the elements needed to be alleged under the substantive law on the matter. All of the elements of the cause of action must be properly alleged in a pleading that seeks affirmative relief. If they are not, the pleading should be dismissed. Kislak v. Kredian, 95 So. 2d 510 (Fla. 1957).

Ms. Arvanitas argues that we cannot order mandatory conservation measures because the measures must go to rulemaking pursuant to Order No. PSC-99-1393-S-TP. This is not true. There is nothing in Order No. PSC-99-1393-S-TP which was issued in a separate docket that prohibits us from adopting those previously accepted measures in the PAA Order in this docket. We emphasize that these two dockets are distinct. Moreover, Order No. PSC-99-1393-S-TP directs our staff to initiate rulemaking in anticipation of necessary authority from the FCC for conservation measures. We note that Order FCC 00-104 has just recently been issued. We believe that until the FCC Order was issued, we could not have proceeded to rulemaking. In the meantime, we believe there is nothing to prohibit us from exercising our authority granted in FCC Order No. 99-249 to proceed with requiring mandatory conservation measures.

Finally, Section 120.54(1), Florida Statutes, requires an agency statement be adopted by rulemaking procedures as soon as feasible and practicable. We believe that it has not been feasible or practicable to begin rulemaking given the FCC's actions and the exigencies of area code jeopardy in this state. Thus, we find that Ms. Arvanitas has not stated a claim upon

which relief can be granted with regard to rulemaking. A rulemaking requirement in one docket is simply not a cause of action in another docket, particularly when the issues are not yet ripe for rulemaking, as in this case.

With respect to utilization thresholds, Ms. Arvanitas makes observations as to why companies cannot meet a utilization threshold. Ms. Arvanitas' comments are unclear as to what relief she is seeking with respect to utilization thresholds. However, assuming Ms. Arvanitas seeks rulemaking, these facts alone, even if true, are not sufficient to require us to initiate rulemaking, particularly when the issues are not yet ripe for rulemaking. Thus, on this point, she has also failed to state a claim for which relief can be granted.

Therefore, for all of the foregoing reasons, we dismiss on our own motion Ms. Arvanitas' Protest for failing to state a claim for which relief can be granted. We find we are not. required either by Order No. PSC-99-1393-S-TP or Florida Statutes to initiate rulemaking in Docket No. 981444-TP prior to adopting conservation measures for purposes of this docket.

III. JOINT PETITIONER'S OFFER OF SETTLEMENT

As previously indicated, the Joint Petitioners timely filed their protest related to three issues of the PAA Order on April 6, 2000, and filed an Offer of Settlement on April 11, 2000. (Attachment A) An additional provision addressing software release implementation was filed April 17, 2000.

A. December 2000 Timetable

In the Offer of Settlement, the Joint Petitioners offer the Revised Plan as a workable, realistic substitute to the actions specified in the PAA Order. They contend that the implementation schedule for number pooling identified in the PAA Order is not feasible. The Joint Petitioners contend that the shortest possible implementation time for any pooling software is 96 to 132 days for the first NPA. The Joint Petitioners state that the implementation dates given in the PAA Order, which are May 1, 2000, for the 954 NPA, July 1, 2000, for the 561 NPA, and October 1, 2000, for the 904 NPA, cannot be met in light of the fact that a final outcome from the protest would not be rendered until sometime in July, at the earliest.

Accordingly, the Joint Petitioners assert the earliest that

numbers could be available for assignment under a number pooling trial would be in the December 2000 time frame, and that the timetable would apply regardless of whether SR30 or SR14 was used. The Joint Petitioners strongly favor SR30 because they claim that SR30 offers enormous operational, reliability, and cost advantages over SR14.

The Revised Plan provides that number pooling using SR30 would begin on December 4, 2000, in the 954 NPA, compared to the May 1, 2000, date, in the PAA Order using SR14. This is approximately 30 days earlier than the parties had proposed prior to the PAA Order. Not all code holders in the 954 NPA are local number portability (LNP) capable, and because the number pooling trials would not affect them, the Joint Petitioners contend that the overall number of blocks consumed in that NPA is not going to change between now and December even if SR14 is implemented.

The Joint Petitioners claim that the thousands-blocks number management program in place today will assist in maintaining the pool of thousands-blocks, and the number of blocks would not be materially different in December than if pooling began sooner. The Joint Petitioners believe that the true issue is whether additional thousands-blocks would remain uncontaminated if number pooling began at an earlier date. According to the Joint Petitioners, uncontaminated blocks would continue to be available because of the voluntary conservation measures in place that all carriers follow, whether LNP-capable or not.[33] According to the Revised Plan, if a LNP-capable carrier needed to activate a new NXX code prior to the number pooling trial, the contaminated thousands-blocks could be returned to the pool once the number pooling was implemented. Any thousands-block with under ten percent contamination would qualify for donation, upon implementation.

The Joint Petitioners believe that a minimum interval of five months from an implementation meeting will be necessary for system planning, modifications, and network testing before the first number pooling trial can begin in the 954, 561, and 904 NPAs. According to the Joint Petitioners, this initiative will be the first pooling trial of its kind in the nine-state BellSouth region, and the issues of network reliability and service affecting systems are critical to Florida. The Joint

[33].Currently, there is mandatory management of thousand-blocks by all carriers pursuant to that portion of the PAA Order that has been stipulated by operation of law.

Petitioners assert that an adequate planning interval will diminish any potential for a network disaster. In the Revised Plan they commit that upon the implementation of the SR30 software package on December 4, 2000, they will be fully prepared to begin the number pooling as provided in their Revised Plan. The Joint Petitioners believe that moving forward now on a Offer of Settlement as provided in their Revised Plan is a better, more appropriate use of the resources of this Commission, its staff, and the carriers than is continued litigation.

Analysis of December 2000 Timetable

During the March 31, 2000, number pooling implementation meeting, our staff and the industry determined that the prerequisite number pooling activities require at least 96 to 132 days. This time frame is needed for, among other things, the identification of uncontaminated thousand-blocks; block donation to the Interim Number Pooling Administrator; the initial software. turn up in individual rate centers and consistency with industry Numbering Council Thousand Block Pooling Administration Guidelines. We believe experience should eventually reduce this time to a minimum. Moreover, we note that the assumptions used in determining this period did not include any testing for reliability of Operational Support Systems (OSS) upgrades and only reflected changes necessary for number pooling. In short, we are persuaded by the Joint Petitioners that a later date to start number pooling in the 954 area code is appropriate, regardless of the software used (SR14 or SR30).

A critical question is whether extending the implementation date beyond what we previously ordered will affect the number of blocks available for number pooling. The Joint Petitioners argue that there will be approximately the same number of blocks available for number pooling, regardless of the implementation date, and rely on the number management procedures required in Commission Order No. PSC-00-0543-PAA-TP and FCC Order 00-104 to support their argument. Paragraph 245 of FCC Order 00-104 provides in part:

> Under our requirement, a carrier that opens a clean block prior to utilizing in its entirety, [sic] a previously-opened thousands-block should be prepared to demonstrate to the state commission: (1) a genuine request from a customer detailing the specific need for telephone numbers; (2) the inability on the part of the carrier to meet the specific customer request for telephone numbers from the surplus of numbers within

the carrier's currently activated thousands-block.

We interpret part (2) of the above passage to cover situations in which the customer requires more consecutive telephone numbers than are available in any one of the carrier's currently activated thousands-number blocks, or the available numbers are incompatible with the customer's premises equipment. We also note that due to the current rationing procedures in the 954, 561, and 904 area codes, which code holder will be assigned a code is still unknown. In other words, predicting the effect of thousand-block management procedures is still imprecise. Based on the above interpretation, however, we believe that there will be essentially the same number of blocks available for number pooling, regardless of the implementation date. Under our interpretation, new blocks would be opened under the same circumstances both pre- and post-pooling. In addition, we note that the exhaustion dates presented during the February 29, 2000, Agenda Conference were based on industry estimates of thousand-block demand and accurately reflect the rate at which new blocks are expected to be opened.

B. NPAC SR30 VERSUS NPAC SR14

The Joint Petitioners claim that SR30 is a superior product to SR14, asserting that its more automated processes would decrease the probability of system errors and/or failures. The SR30 package uses an Efficient Data Recognition (EDR) system that they contend is also more efficient in terms of storage capacity. EDR involves less human intervention since far fewer records must be entered manually. In the SR14 number pooling platform, a typical thousands-block (NXX-X) will be represented using one thousand individual records, whereas under the SR30 software, a thousands-block will be represented using a single record. Also, with SR30, the carrier is able to use an electronic link to the pooling administrator to activate a thousands-block. The activation of a thousands-block under SR14 involves manual intervention, which the Joint Petitioners assert is subject to human error. According to the Joint Petitioners, the SR30 provides increased efficiency and reliability, as compared to SR14.

The Joint Petitioners assert that the developer of SR30, NeuStar, had prior concerns about the delivery date for the package. NeuStar is, however, now under contractual obligation to provide SR30 to the Joint Petitioners and has given assurances that it will deliver the SR30 as promised by a date certain in

order for the Joint Petitioners to meet the number pooling implementation date in Florida. Failing that, the Joint Petitioners contend that NeuStar is subject to penalties and other liquidated damage provisions. As noted earlier, NeuStar represented that the delivery date for SR30 has been "pushed back" four weeks to July 31, 2000. Therefore, the new date for general availability is now January 22, 2001.

In response to NeuStar's announcement on the conference call on April 17, 2000, the Joint Petitioners filed an additional provision, Paragraph 22, to the Revised Plan. The provision reads:

> In the event that NPAC software release 3.0 specified in paragraph 4 is not available for implementation by the dates specified in paragraphs 1, 2, or 3, then the code holders shall implement NPAC software release 1.4 by the dates specified in paragraphs 1, 2, or 3. The purpose of this paragraph is to establish that number pooling shall commence on the dates specified in paragraphs 1, 2, or 3 using the available software.

The provision provides a commitment to implement number pooling on December 4, 2000, using SR14 if SR30 is not available in the time frame set forth in the Revised Plan. This commitment obligates the Joint Petitioners to begin number pooling according to all other terms and conditions set forth in the Revised Plan.

The issue of implementation cost was also raised by the Joint Petitioners, and while specific cost information is not uniformly available at this time, the Joint Petitioners assert that a single implementation of SR30 would likely involve a lower cost than a transitioned implementation (i.e., an immediate implementation of SR14 to be followed by a later transition to SR30). As a frame of reference to compare implementation costs of SR14 versus SR30, the Offer of Settlement states that the estimated cost for implementing SR30 for a large unnamed local exchange company would be in the range of 20-25% of the level of the existing FCC-authorized LNP surcharge. Furthermore, the direct costs of the transitioned implementation as described above would approach 50% of the level of the existing FCC-authorized LNP surcharge. However, if the SR14 is the software used, the Joint Petitioners estimate that the cost may exceed the LNP surcharge level, primarily because of necessary upgrades to modify the network. The Joint Petitioners assert that an interim implementation of SR14, as specified in the PAA Order, would only

yield a marginal benefit at a great cost, and that the benefits are simply not worth the costs. Finally, the Joint Petitioners contend that a SR14 to SR30 transition process has never been done before, and that process entails certain unknowns and could be risky.

Analysis of NPAC SR30 versus NPAC SR14

We too are concerned that the cost of implementing SR14 may be greater than the benefits associated with number pooling using SR14. We now are persuaded that the EDR feature of SR30 will provide greater efficiency and reliability as compared to SR14. Moreover, given that the transition from SR14 to SR30 is not known and pooling cannot occur during this period, we believe that SR30 is a more reliable choice to use for number pooling in Florida's area codes. In addition, because the overall utilization rate is expected to be the same with the conservation measures in place, we find that the exhaustion date will not be materially impacted if number pooling begins January 22, 2001. The implementation dates for the 561 and 904 NPAs will remain as stated in the Offer of Settlement.

While we recognize the benefits of implementing SR30, we remain concerned that an implementation date is not certain at this time. The Joint Petitioners assert that NeuStar has given assurances that it will deliver the SR30 as promised and that failing this requirement, NeuStar is subject to penalties and other liquidated damage provisions. On April 14, 2000, however, NeuStar announced via e-mail to state commission staff and again at our Special Agenda Conference that due to a higher than predicted number of software defects being encountered during the integration testing phase of SR30, the release of SR30 to the industry would be delayed. NeuStar now estimates that the earliest date providers can begin testing SR30 is July 31, 2000, instead of July 3, 2000. Moreover, we are concerned because only 70% of the software integration has been completed. In other words, there is still a possibility of further delay due to software defects, which might necessitate postponing implementation. However, the Joint Petitioners agree that should SR30 still not be available by January 22, 2001, SR14 will be implemented at that time. We find acceptable this modification to the Offer of Settlement by the Joint Petitioners. Therefore, we find that if SR30 is not available for implementation by January 22, 2001, SR14 shall be implemented.

C. THE APPOINTMENT OF AN INTERIM NUMBER POOLING ADMINISTRATOR

The Revised Plan supports the appointment of NeuStar as the Interim Number Pooling Administrator, upon the necessary contract execution. The Revised Plan also requires the issuance of a Commission Order to finalize the implementation of a number pooling program; however, we will not be involved as a contracting party. State commission approval is necessary prior to a carrier contracting with NeuStar because NeuStar will not accept any block donations until a carrier has joined the contract between NeuStar and the limited liability company (LLC).

Analysis of the Appointment of an Interim Number Pooling Administrator

We believe that for number pooling to take place, an Interim Number Pooling Administrator must be selected. In this Offer of Settlement, the Joint Petitioners state that we must approve the appointment of NeuStar as the Interim Number Pooling Administrator. Given NeuStar's experience in Illinois, California, and New York, we find that NeuStar shall be appointed as the Interim Number Pooling Administrator. We note that NeuStar will not accept any block donations until a carrier has joined the contract between NeuStar and the LLC. We believe, however, that carriers have an incentive to join in the contract rather than face a penalty for missing the mandated implementation date.

D. COST ALLOCATION ISSUES

The costs incurred by the Interim Number Pooling Administrator will be allocated among the carriers. The Revised Plan, however, does not recommend a specific cost allocation methodology at this time, but provides that the allocation should be managed in a competitively neutral manner. The Joint Petitioners contend that the details for cost allocation would be incorporated into the Interim Number Pooling Administrator's contract, but that this process should have no impact on or delay the implementation of number pooling, and the earliest number pooling trial date of January 22, 2001, for the 954 NPA.

Analysis of Cost Allocation Issues

Cost allocation refers to spreading the cost associated with implementing number pooling among the carriers which would utilize the pooling mechanism. We acknowledge that the Revised

Plan does not recommend a specific solution at this time, except that the allocation method must be competitively neutral. We agree because this statement is consistent with FCC Order No. 00-104. If the Joint Petitioners cannot decide on a method, we are to select the method from options provided by the Joint Petitioners. We find this approach acceptable.

E. BLOCKS FOR NUMBER POOLING

The Revised Plan provides that when number pooling begins in each of the NPAs, the blocks for number pooling should be uncontaminated blocks, because the uncontaminated blocks are easier to administer. However, the Revised Plan also provides for pooling of blocks with less than ten percent contamination as needed to maintain a six-month inventory. This flexibility should allow the Interim Number Pooling Administrator to execute any thousands-block donations in an efficient manner.

Analysis of Blocks for Number Pooling

According to the Industry Numbering Council Thousand Block Pooling Administration Guidelines (Guidelines), any uncontaminated thousand-blocks and any blocks with less than ten percent contamination are subject to pooling. The Guidelines also state that, initially, only uncontaminated blocks should be donated. These thousands-blocks can be donated and assigned to a carrier without the need for porting. It is only after all uncontaminated blocks are donated and the requisite inventory is not reached that the pooling administrator would request donation of ten percent or less contaminated blocks. In this manner, the pooling mechanism can be administered easily. For example, the Interim Number Pooling Administrator reviews all of the uncontaminated blocks and if it determines that there are insufficient quantities of uncontaminated blocks to fill a six month inventory, the Interim Number Pooling Administrator would then request that blocks with ten percent or less contamination be identified and eventually donated. This process alleviates the need to open a new block. Based upon this understanding, we find that the block donation provisions of the Revised Plan are consistent with the Guidelines and are approved.

F. COST RECOVERY ISSUES

The Revised Plan provides that we should open a docket to examine the cost recovery issues. The Joint Petitioners, however, are willing to commence with number pooling

implementation, as long as we acknowledge the need for cost recovery and commit to address the matter as directed by the FCC in its grant of authority to Florida to begin number pooling trials.

Analysis of Cost Recovery Issues

As previously indicated, on March 31, 1999, the FCC issued a Report and Order and Further Notice of Proposed Rule Making regarding Number Resource Optimization. FCC Order 00-104. In this Order, the FCC addressed issues pertaining to cost recovery and required state commissions to resolve this issue on a competitively neutral basis. In addition, the FCC identified the types of costs that should be attributed to the implementation of number pooling. The Offer of Settlement states that as long as we acknowledge an obligation to review the issues pertaining to cost recovery, the Joint Petitioners would be able to start pooling trials in Florida. Thus, we acknowledge the FCC's rules and orders requiring the Commission to resolve any matters related to cost recovery under the federal law and agree to open a docket to address this issue. We emphasize that this procedure would have been followed regardless of the Offer of Settlement.

We note, however, that should BellSouth implement SR14 on January 22, 2001 due to the unavailability of SR30, it has agreed not to seek recovery of the incremental costs of implementing SR14.

G. RESPONSE OF MS. ARVANITAS

We believe that the remaining portions of Ms. Arvanitas' filings are a response to the March 23, 2000, Number Pooling Implementation Plan, submitted by the Florida Code Holders Group.

Ms. Arvanitas discusses number pooling, utilization thresholds, months-to-exhaust criteria, and the SR14 software. She also contests the Joint Petitioner's statement alleging that the "PAA Plan would impair . . . access to numbering resources," and challenges this Commission to take immediate, drastic action to "iron out" the number conservation issues.

Ms. Arvanitas alleges in her April 13, 2000, correspondence that she wanted the pooling to occur in the Tampa Bay area, and further, that the BellSouth representative fought her over the inclusion of that area for a pooling trial. We have already addressed the specific NPAs to be targeted for the thousands-

block number pooling. Only the 954, 561, and 904 NPAs were identified as currently in jeopardy, and therefore they were selected for pooling trials. These NPAs do not include the Tampa Bay area. We find that conservation measures, including pooling trials, shall be implemented and tested in these areas first and then implemented on a broader scale throughout the state.

Ms. Arvanitas also notes the fact that our staff's input was not included in the industry's vote on the revisions of the Industry Numbering Council Guidelines. She alleges that valuable input from state commissions was not heard because of late changes to the teleconferencing arrangements. We believe that Ms. Arvanitas' protests are again directed at the industry, but are not directed to a specific issue raised in the Joint Petitioners' Protest nor any part of the our PAA Order. We find that her argument is not germane to the Protest, and therefore, will not be considered.

Ms. Arvanitas also argues that full costs for number pooling are not known, and as such, full cost recovery cannot be discussed. We agree and believe that at the appropriate time a docket will be opened to address these concerns.

Ms. Arvanitas' final argument involves a statement by the industry that "the PAA Plan for Number Pooling would impair the Joint Petitioners' access to numbering resources." She then asks us to direct the current numbering administrator (NANPA) to suspend all code assignment statewide so that the number pooling issues can be "ironed out." While we appreciate Ms. Arvanitas' outrage at the status of numbering and area code relief in Florida, we believe her request to suspend all code assignments is not reasonable and can only be addressed by the FCC.

H. CONCLUSION

We agree with the FCC that any measure that increases the efficiency with which numbers are utilized will result in significant consumer benefits by helping to alleviate the disruption and expense associated with frequent area code exhaust. (See FCC 99-122, ¶1) Due to these urgent reasons, we asked and received authority from the FCC on September 15, 1999.

Although we had some concerns regarding cost allocation and the selection of software, we believe that the Offer of Settlement provides a workable number pooling plan using state-of-the-art software, which will be inherently more efficient than

SR14. Based on the time frames provided in the Offer of Settlement as revised at the May 5, 2000 Special Agenda Conference, the Joint Petitioners have committed to implementing number pooling as soon as is reasonably possible under SR30, and in much the same time as could be expected if this matter went to hearing. In addition, the Joint Petitioners have modified the Revised Plan to reflect that if SR30 is not available by January 22, 2001, the Joint Petitioners will utilize SR14. The implementation dates for the 561 and 904 NPAs will remain as stated in the Offer of Settlement. In addition, we note that BellSouth and Sprint have agreed not to seek recovery of their incremental costs for implementing SR14 on January 22, 2001, should it be necessary for them to do so. For these reasons, we approve the Offer of Settlement as modified by the Joint Petitioners at the May 5, 2000, Special Agenda Conference.

We have established by numerous Orders that area code conservation is necessary in this state. Therefore, to ensure that area codes are conserved to the maximum possible extent, we will initiate a show cause proceeding against any company that fails to meet the implementation dates or violates any other provision of our Order and penalize any code holder found in violation in accordance with Section 364.285, Florida Statutes. Violations will be considered on a rate center basis. Further, we will closely monitor company compliance with our Order under the authority granted pursuant to Section 364.183, Florida Statues, by reviewing any records and conducting regular and random audits.

It is therefore

ORDERED by the Florida Public Service Commission that Ms. Arvanitas' Protest of the portion of PAA Order No. PSC-00-0543-PAA-TP relating to mandatory conservation measures is dismissed upon our own motion for failure to state a claim for which relief can be granted. It is further

ORDERED that the Joint Petitioners' Offer of Settlement, as modified on May 5, 2000, and as discussed in the body of this Order, to resolve the Number Pooling Implementation Protest is hereby approved as specified in the body of this Order. It is further

ORDERED that NeuStar is selected as the Interim Number Pooling Administrator. It is further

ORDERED that companies are subject to close monitoring under

our authority granted under Section 364.183, Florida Statutes, through random and regular audits and records requests. It is further

ORDERED that all unprotested portions of Order No. PSC-00-0543-PAA-TP are deemed stipulated pursuant to Section 120.80(13)(b), Florida Statutes, and are final.

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket should remain open pending the outcome of further investigation into other number conservation measures for broader implementation.

By ORDER of the Florida Public Service Commission this 30th day of May, 2000.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: /s/ Kay Flynn
Kay Flynn, Chief
Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

As identified in the body of this order, our action approving the Joint Petitioners' Offer of Settlement as amended is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 20, 2000. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

Any party adversely affected by the Commission's final action in this matter may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

EXHIBIT 1

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Number Utilization Study: Investigation Into Number Utilization Measures	)))	Docket No. 981444-TP

FLORIDA CODE HOLDERS
REVISED NUMBER POOLING IMPLEMENTATION PLAN
FOR THE 954, 561, AND 904 NPAs

1. Number pooling for those carriers that have implemented permanent local number portability ("LNP") in the Ft. Lauderdale metropolitan statistical area ("MSA") shall begin in the 954 numbering plan area ("NPA") no later than December 4, 2000, using uncontaminated 1000s number blocks as is further detailed below. This means that no later than December 4, 2000, assignment on the 1000s number block level will be available from the Interim Pooling Administrator.

2. Number pooling for those carriers that have implemented permanent LNP in the Palm Beach MSA shall begin for the Palm Beach MSA area of the 561 NPA (i.e., Palm Beach County) no later than February 5, 2001, using uncontaminated 1000s number blocks as is further detailed below. This means that no later than February 5, 2001, assignment on the 1000s number block level will be available from the Interim Pooling Administrator.

3. Number pooling for those carriers that have implemented permanent LNP in the Jacksonville MSA shall begin in the Jacksonville MSA area of the 904 NPA (i.e., Clay, Duval, Nassau, and St. Johns Counties) no later than April 2, 2001, using uncontaminated 1000s number blocks as is further detailed below. This means that no later than April 2, 2001, assignment on the 1000s number block level will be available from the Interim Pooling Administrator.

4. The national standard Number Portability Administration Center ("NPAC") software release 3.0 will be used in the 954, 561, and 904 pooling plan areas by those carriers that have implemented permanent LNP in the respective MSAs.

5. Attached hereto as Attachment "A" is a proposed timeline that identifies key milestone dates leading up to the number pooling implementation dates specified in Paragraphs 1, 2, and 3 above for each of the respective NPA pooling plans. Other than the dates specified in Paragraphs 1, 2, and 3 above for the pooling of uncontaminated 1000s number blocks, the dates contained in Attachment "A" are planned dates based upon implementation schedule information currently available. As is identified in Attachment "A," the first scheduled event for each NPA will be an implementation meeting of all of the code holders, Florida Public Service Commission ("FPSC") Staff, and other relevant parties. At that implementation meeting, an official implementation schedule will be established, including dates for the later donation and pooling of contaminated 1000s number blocks as necessary to provide at least a six months inventory of 1000s number blocks, which may result in some of these other dates changing slightly from those identified in Attachment "A." However, based upon the submission and approval of this Florida Code Holders Number Pooling Implementation Plan ("Plan") by the FPSC, the subscribing code holders have made a commitment to the dates specified in Paragraphs 1, 2, and 3 for the beginning of number pooling in the respective NPA/MSA areas using uncontaminated 1000s number blocks.

6. Predicated on the Commission naming NeuStar as the Interim Pooling Administrator, the code holders agree to undertake whatever steps are necessary for the limited liability company ("LLC") to execute a contract with NeuStar as the Interim Pooling Administrator and undertake such other necessary implementation measures. The Interim Pooling Administrator shall serve until such time as the Federal Communications Commission ("FCC") selects a permanent pooling administrator. The dates specified in Attachment "A" hereto are predicated on NeuStar's acceptance as being the Interim Pooling Administrator for the 954, 561, and 904 pooling plans. If NeuStar does not timely accept selection as the Interim Number Pooling Administrator, then it may not be possible to comply with the dates specified in Attachment "A." The subscribing code holders make no assumption, whatsoever, that NeuStar will ultimately be selected as the permanent Pooling Administrator. Adoption of this Plan by the Commission shall not require the Commission to have any contractual responsibilities with the Interim Pooling Administrator or the North American Portability Management LLC.

7. The code holders executing this Plan have also assumed that the necessary contractual arrangements with NeuStar will be in place so that the number pooling identified herein can be undertaken on a timely basis. In the other states, the necessary contractual obligations for implementation of number pooling have been undertaken by the respective LNP limited liability companies ("LLC"), which in turn have contracted with NeuStar as the Interim Pooling Administrator and undertaken such other necessary implementation measures. The subscribing NXX code holders designate the North American Portability Management LLC to negotiate a contract with the Interim Pooling Administrator for each of the 954, 561, and 904 NPA pooling plans identified herein upon the issuance of a final Commission order accepting and approving this Plan. Once the contract between NeuStar and the North American Portability Management LLC is executed, any necessary joinders to such contract shall be executed by the appropriate carriers. The dates specified in Attachment "A" hereto are predicated on North

American Portability Management LLC accepting appointment as the contracting agent and negotiating the contract with the Interim Pooling Administrator in a timely manner such that the implementation of pooling under paragraphs 1, 2, and 3 above would not be delayed.

8. Interim Methodology For Allocating The Costs Of The Interim Pooling Administrator.

A. Paragraph 17 of FCC Order No. 99-249, CC Docket No. 96-98, September 15, 1999, requires the FPSC to ensure that the costs of the Interim Pooling Administrator are allocated among the affected service providers within each affected NPA area subject to pooling on a competitively neutral basis. The FPSC order adopting this Plan shall direct that there shall be a meeting limited to only the affected service providers within each of the NPA areas subject to pooling under this Plan, at which time the affected service providers shall determine an interim cost allocation methodology consistent with paragraph 207 of FCC Order No. 00-104. This interim cost allocation methodology shall be provided to the North American Portability Management LLC for inclusion in the implementation contract with the Interim Pooling Administrator, and only the cost allocation provisions of the proposed implementation contract shall be submitted to the FPSC for review prior to the first implementation meeting. In reviewing the Interim Pooling Administrator cost allocation provisions of the implementation contract under paragraph 7 above, the FPSC shall either approve the selected method or reject such provisions if the FPSC finds that such provisions do not comply with FCC Order Nos. 99-249 and 00-104.

B. The first meeting of the affected service providers for each NPA pooling plan to determine the interim cost allocation methodology shall occur within 10 business days of the issuance of the FPSC order approving this Plan. The interim cost allocation methodology chosen by the affected service providers shall be provided to the North American Portability Management LLC in accordance with its procedures for consideration at its next meeting.

C. In the event the service providers cannot agree on an interim cost allocation methodology, the FPSC shall issue an appropriate order pursuant to Florida Statutes Chapter 120 establishing an interim cost allocation methodology from those that are submitted to or developed by the North American Portability Management LLC and forwarded to the FPSC. In ordering an interim cost allocation methodology under these circumstances, the FPSC shall select a methodology that allocates the costs of the Interim Pooling Administrator in a manner that complies with FCC Order Nos. 99-249 and 00-104.

D. Any interim cost allocation methodology chosen under this Plan shall be subject to a retroactive true-up by the FPSC to any permanent cost allocation

methodology. The true-up should also include selection of the entity responsible for performing such true-up.

9. Paragraph 17 of FCC Order 99-249 also requires that the FPSC must determine the method of recovering the costs of any number pooling it orders and that such recovery must be done on a competitively neutral basis. Accordingly, the FPSC order adopting this Plan shall state that the costs associated with number pooling shall be recovered in a competitively neutral basis and that the FPSC shall open a separate docket for the purpose of determining the amount of the pooling costs to be recovered and the method by which such costs will be recovered.

10. The number pooling to be implemented under this Plan shall follow the most recently approved and effective Industry Numbering Committee ("INC") Guidelines, which at the time of the submission of this Plan to the FPSC is dated February 28, 2000. Any subsequently modified INC Guidelines shall not be utilized until they have been approved and become effective pursuant to the INC.

11. On the first business day of each month from May 2000, through May 2001, those carriers that have implemented permanent LNP in the respective three MSAs will provide the FPSC with a monthly status report on the testing and implementation progress of the NPAC release 3.0 and such implementation in the 954, 561, and 904 NPAs.

12. Implementation of this Plan is contingent upon the FPSC adopting this Plan in lieu of the 954, 561, and 904 NPA number pooling plan contained in FPSC Order No. PSC-00-0543-PAA-TP, issued March 16, 2000, and taking no further action to implement a pooling plan contrary to that identified herein for the 954, 561, and 904 NPA absent further direction from the FCC. Acceptance of this paragraph shall not preclude the FPSC, the subscribing code holders, or others from developing number pooling plans for other MSA/NPA areas consistent with FCC Order Nos. 99-249 and 00-104 or in addressing other number conservation measures delegated to the FPSC by FCC Order No. 99-249 or included in FCC Order No. 00-104.

13. Except for the number pooling provisions superceded by the adoption of this Plan, the subscribing code holders agree to adhere to the number conservation measures incorporated in FPSC Order No. PSC-00-0543-PAA-TP except as further modified by FCC Order 00-104. The subscribing code holders further agree to open an uncontaminated 1000s number block, prior to utilizing previously-opened 1000s number blocks, only in those instances where (1) there is a genuine request from a customer detailing the specific need for telephone numbers, and (2) there is an inability on the part of the carrier to meet the specific customer request for telephone numbers from the surplus of numbers within the carrier's currently activated 1000s blocks.

14. This Plan shall take effect on the date that the FPSC order adopting it becomes final agency action pursuant to Florida Statutes Chapter 120.

15. This Plan and the number pooling plan for the 954, 561, and 904 NPAs contained

herein are entered into for purposes of implementing a meaningful, workable number pooling plan for the affected areas of the 954, 561, and 904 NPAs without further litigation. This document shall be valid and binding on the subscribing parties only to the extent it is adopted in its entirety as presented to the FPSC, and no provision of this Plan shall be deemed waived, amended, or modified by any code holder subscribing to this Plan unless such waiver, amendment, or modification is in writing, dated, and signed by all such code holders.

16. In the event that the FPSC does not accept this document in its entirety pursuant to its terms, this document shall not be admissible in any hearing on the matters established by this docket, or in any other docket or forum. Moreover, no party to this Plan waives any position on any issue that it could have otherwise asserted in this or any other docket as if this document had never been developed and written.

17. If the FPSC adopts this Plan as provided for herein, then the subscribing parties shall not protest, request reconsideration of, or appeal the order of the FPSC adopting this document in accordance with its terms.

18. The subscribing Florida NXX code holders believe that the number pooling requirements contained herein for the 954, 561, and 904 areas specified in Paragraphs 1, 2, and 3 above are consistent with FCC Order Nos. 99-249 and 00-104 and that this Plan will meet any requirements that the FCC may impose for a permanent number pooling solution for Florida. The subscribing Florida NXX code holders hereby commit to the FPSC that they shall work diligently, consistently, and in good faith to fully and completely implement this Plan, but if the FCC's orders or subsequent FCC actions not contemplated herein make it appropriate, the subscribing code holders shall report back to the FPSC with any necessary or desirable modifications to this Plan so that it can be completed consistent with all of the requirements of the law.

19. By agreeing to the number pooling plan described herein, the subscribing Florida NXX code holders are not conceding that the FPSC has jurisdiction over numbering matters beyond the authority specifically delegated to the FPSC. Accordingly, this document shall not be used by any person to assert that the subscribing parties have conceded jurisdiction on such issues or that they have waived any rights with respect to such jurisdictional issues.

20. This Plan shall be binding upon, and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

21. The subscribing Florida NXX code holders have prepared and offered this Plan in good faith and in the belief that its terms represent a workable, efficient, cost effective, and overall best means of achieving meaningful number pooling in the 954, 561, and 904 NPAs consistent with the terms of the FCC's Order Nos. 99-249 and 00-104 and the needs of Florida telecommunications customers.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Number Utilization Study: Investigation Into Number Utilization Measures	)))	Docket No. 981444-TP Filed: April 11, 2000

JOINT PETITIONERS' OFFER OF SETTLEMENT TO RESOLVE THE NUMBER POOLING IMPLEMENTATION PROTEST OF ORDER NO. PSC-00-0543-PAA-TP

Pursuant to Sections 120.569 and 120.57, Florida Statutes, and Rules 28-106.201 and 28-106.204, Florida Administrative Code, the undersigned (hereinafter "Joint Petitioners") hereby file this Offer of Settlement To Resolve The Number Pooling Implementation Protest of Order No. PSC-00-0543-PAA-TP ("Offer of Settlement") with the Florida Public Service Commission (the "Commission") and to resolve the Joint Petition on Mandatory Number Pooling ("Joint Petition") filed by the Joint Petitioners on April 6, 2000, regarding proposed agency action ("PAA") Order No. PSC-00-0543-PAA-TP, issued March 16, 2000 (hereinafter "PAA Order"), and respectfully request that the Commission accept this Offer of Settlement to fully and completely resolve and conclude the Joint Protest in lieu of the sections 120.569 and 120.57(1) hearings requested therein. In support of this Offer of Settlement, the Joint Petitioners state:

I. Parties

1. The name, address, and telephone number of each of the Joint Petitioners, and each Joint Petitioner's representative(s), is attached hereto as Exhibit "A" and incorporated herein.

2. Each of Joint Petitioners (reflected on a separate Exhibit "A" for each entity) is a telecommunications provider authorized to offer telecommunications services in Florida or is an association that represents telecommunications providers authorized to offer telecommunications services in Florida. Each of the telecommunications carriers represented by this Offer of Settlement is a party to the Joint Protest filed on April 6, 2000 or by signing this Offer of Settlement agrees to become a party to the Joint Protest and this Offer of Settlement.

II. Background

3. The Joint Petitioners received notice of the PAA Order on or after the date of its issuance, March 16, 2000, by obtaining copies mailed from the Commission or obtained from the Commission's Internet web site.

4. On March 23, 2000, many of the undersigned Joint Petitioners filed with the Commission their Florida Code Holders Number Pooling Implementation Plan for the 954, 561, and 904 NPAs ("Plan") along with a lengthy explanatory letter ("Letter"). In these documents, the signatory code holders provided to the Commission an alternative number pooling plan for the 954, 561, and 904 NPAs that they believed provided the overall best means of achieving

meaningful number pooling in these three NPAs.

5. On March 31, 2000, the Federal Communications Commission ("FCC") issued its Order No. FCC 00-104, the Report and Order and Further Notice of Proposed Rulemaking in the Number Resource Optimization proceeding, CC Docket No. 99-200 ("Order 00-104"). Order 00-104 addresses two of the major factors that contribute to number resource exhaust – new rules to govern the allocation of telephone number resources to carriers and specific requirements for the start of national thousands-block number pooling.

6. On April 6, 2000, the Joint Petitioners timely filed their limited Joint Protest to this Commission's PAA Order. The Joint Protest requested a section 120.57(1) hearing to reverse only those provisions of the PAA Order specifically relating to the implementation of number pooling in the 954, 561, and 904 NPAs (which are expressed in Sections III ("Mandatory Implementation of Thousand Block Pooling," at pages 5-11), VI ("Thousand-Block Pooling Software Release and Implementation Dates," at pages 15-18), and VII ("Designation of A Code Administrator," at pages 18-19) of the PAA Order and in the corresponding ordering paragraphs), and to schedule a hearing pursuant to section 120.57(1), Florida Statutes, to adopt an alternative procedure for implementing number pooling in the 954, 561, and 904 NPAs, and to undertake such other relief as may be appropriate to address the issues raised in the Joint Protest. The filing of the Joint Protest was required in order for the Joint Petitioners to preserve their legal rights and point of entry to the Commission's final decision making process and so that the Commission could fully consider the objections and alternative proposal of the code holders.

7. Since the filing of the Plan and Letter, the Joint Petitioners have been continuing to work to revise and refine their recommendations for an alternative number pooling plan for the 954, 561, and 904 NPAs that would best achieve meaningful number pooling in a cost effective, efficient, and legally compliant manner. These efforts have involved the work of over 20 code holders and carriers through a continuing series of telephone conference calls and meetings with the exchange of numerous e-mails and document drafts. On the basis of this work, the Joint Petitioners have prepared a Revised Number Pooling Implementation Plan for the 954, 561, and 904 NPAs ("Revised Plan") that is attached hereto and incorporated herein as Exhibit 1 (which includes and incorporates "Attachment A to Exhibit 1"). The Joint Petitioners believe that the Revised Plan will fully meet the Commission's objectives for timely number pooling in these affected NPAs. More importantly, the Revised Plan includes a realistic, achievable timetable that, unlike the PAA Order's proposed timetable, includes a testing interval to ensure network reliability. Adoption of the Revised Plan also would avoid the waste of time and money that would result from implementing an interim form of pooling and then shortly thereafter migrating to the national standard. The Revised Plan includes a commitment that number pooling, using the Release 3.0 software, will begin in the 954 NPA no later than December 4, 2000, with appropriately staggered implementation in the 561 and 904 NPAs quickly following. The Revised Plan also addresses appointment of an Interim Pooling Administrator, cost allocation requirements and cost recovery procedures. Finally, the Joint Petitioners will commit to provide monthly status reports of testing and other implementation issues to the Commission

throughout the implementation process.

8. The Joint Petitioners believe that the Commission considers implementation of number conservation to be an ongoing process. This Revised Plan represents part of the Joint Petitioners' continuing input to the Commission's number pooling decision making process which is required by FCC Order 99-249, issued in CC Docket No. 96-98, September 15, 1999 ("Delegation Order") and the recently issued FCC Order 00-104. Although the Commission Staff, the code holders, and others have been working intently to develop an effective, workable number pooling plan since the fall of 1999, we believe that the initial proposal, while protested, has proven to be an added catalyst in focusing the code holders on a firm implementation plan. The Joint Petitioners submit that the Revised Plan is consistent with the Commission's grant of authority, as delegated by the FCC to implement number conservation measures, and the FCC's recent Order 00-104. On the basis of the information presented in this Offer of Settlement, the undersigned respectfully request that the Commission adopt the Revised Plan as a settlement of the Joint Petitioners' Joint Protest.

III. The Revised Plan

A. December 2000 Timetable

9. The Revised Plan is offered because the timeline and the technology that would be required by PAA Order are not feasible for several reasons. First, by virtue of the Joint Protest, the implementation of number pooling in the 954 NPA on May 1, 2000, in the 561 NPA on July 1, 2000, and in the 904 NPA on October 1, 2000 cannot occur given the requirements for a hearing on the protest. The absolute earliest there could be a final order resolving the Joint Protest would be some time in July, at which time the implementation process could begin. Based upon the information developed at the March 31, 2000, Staff Workshop in Orlando, Florida, the shortest possible implementation time for any pooling software is in the 96 to 132 day range (assuming numerous factors that are not present) for the first NPA to be pooled. Accounting for these issues means that the earliest numbers could be available for assignment under a pooling trial would be in the December 2000, time frame.

10. Assuming the Joint Protest had not been filed, for all practical purposes, the implementation of number pooling could not begin in Florida any earlier than late in the fourth quarter of 2000 regardless of the software used as is explained more fully below. In the final analysis, the decision comes down to the Commission selecting between Number Portability Administration Center ("NPAC") Release 1.4 ("R1.4") or NPAC Release 3.0 ("R3.0"). Given R3.0's substantial service reliability advantages and lower potential cost recovery impact on end users, the Joint Petitioners strongly favor the R3.0 solution and believe that the Commission will concur if it reassesses this issue after considering the information provided herein.

11. In light of the negligible difference in realistic implementation dates and the enormous operational, reliability, and cost advantages of R3.0, to customers and carriers alike,

the Joint Petitioners have targeted R3.0 for implementation and have committed to the earliest resulting time frames that are outlined in the Revised Plan. A summary of the relative merits and cost issues of the R3.0 and R1.4 is included below as an explanation of the background and factual analysis leading up to this commitment.

12. The Revised Plan would achieve an implementation date (using the more modern, forward-looking Release 3.0) beginning on December 4, 2000, in the 954 NPA. There is no evidence that waiting to begin pooling at that time would materially affect the exhaust date of an existing Florida NPA. In Illinois for example, the current pace of thousands-block allocation is 30 each month. Without pooling, this might represent the need for as many as 30 NXX codes per month (assuming one block per carrier per month). However, with pooling, these 30 blocks equate to only 3 NXXs per month, which is half of the current number of NXX codes being rationed in the 954 NPA each month and less than half of the 7 being rationed in the 561 and 904 NPAs each month. While wireless carriers and non-LNP capable carriers have been taking some of the NXX codes that are currently being rationed, they have been taking less than half of all codes assigned over the last few years, and recently some wireless carriers have actually returned codes in these and other Florida NPAs. This data, combined with the recall of unused NXX codes now underway, suggests that waiting for pooling to start on the dates specified in the Revised Plan will not significantly affect the three Florida jeopardy NPA exhaust date assumptions.

13. More importantly, with mandatory thousands-block number management in place, there is little reason to expect that the number of thousands-blocks available to the pool would be materially different in December 2000, whether pooling began at that time or at some earlier date (assuming it could). A significant number of the code holders in 954 are not LNP capable. These code holders, such as wireless providers, will use the same number of NXXs between now and December regardless of when pooling is implemented.

14. As for the LNP capable code holders, their total utilization of numbers between now and then will depend on the demand for their services. The number of customers they obtain, and their need for telephone numbers, is unlikely to change, whether pooling were implemented now or December. Thus, the total amount of numbers consumed in 954 between now and December is not going to change, regardless of the Commission's decision in this instance.

15. The only issue, then, is whether additional thousands-blocks would remain uncontaminated if pooling began earlier[11]. This is highly unlikely. Most affected carriers have been managing thousands-blocks consistently with the PAA Order for nearly a year under the

[11]We believe that the data contained in the chart discussed at the February 29th Agenda Conference tended to indicate a significant difference in the exhaust date of the NPAs if number pooling could be implemented in May of 2000, rather than January of 2001. We believe that these estimates were based on certain assumptions that, with the information now available, do not appear to be valid.

voluntary measures, and all are now required to do so. Moreover, under the terms of FCC Order 00-104, additional number allocation requirements will be effective that should serve to further conserve numbers and blocks. If an LNP capable carrier were forced to obtain a full NXX before pooling were implemented, it would be required to utilize the NXX in a manner designed to preserve uncontaminated thousands-blocks, which would then be donated to the pool when pooling is implemented. Even if that carrier made an assignment out of an additional block, so long as that additional block had less than 10% contamination, that contaminated block later would also be subject to pooling under the Revised Plan and the carrier would have to bear the cost of porting backThe petitioners are aware that the staff made some rough estimates at the February 29 agenda conference that the numbers assigned out of that additional block. This means that the pool will not be materially different for the number of uncontaminated thousands-blocks available in December, even if pooling could begin earlier (which it can't). Accordingly, there is no reason to believe that the implementation of pooling by December 4, 2000, in 954 (rather than even a theoretical May 1,2000 date) would diminish the lifespan of that NPA in any material way.

16. The Joint Petitioners believe that a minimum of 5 months from the initial Implementation Meeting is required for the first time that any number pooling is undertaken in Florida. This period of time is required for system planning, modifications, and testing to ensure that no breakdown occurs in the functioning of the network, the service ordering process, or any other service/customer affecting systems. As was discussed at the March 31, 2000, Staff workshop, these testing and network reliability issues are very real for Florida where there has not been any previous experience in pooling in either this state or anywhere within the BellSouth region. While some of the carriers operating in Florida may have participated in the few, limited pooling trials elsewhere, there are numerous carriers in the 954, 561, and 904 NPAs that have never participated in pooling. To throw these carriers into pooling without proper planning, testing, and implementation poses the potential for network disaster. While the earliest implementation of R3.0 is determined by the general availability release on December 4, 2000, the carriers represented by this Offer of Settlement are committed to being ready at the earliest R3.0 is ready for live, actual pooling southeast region. In the timeline committed to in the Revised Plan, system modification and testing will occur independently of, yet concurrent with, the milestones in order to ensure our being ready when the software is ready.

17. In view of the present protest to the PAA Order, the earliest there could be a final order resolving the protest is mid-July 2000. Given the need for four or more months to start and complete planning, testing, and implementation, the earliest any pooling can begin under a post-litigation schedule would also be in December. The Joint Petitioners believe that moving forward now on the basis of a settlement commitment to implement number pooling as is outlined in the Revised Plan is a better, more appropriate use of the resources of the Commission, its Staff, and the carriers than continued litigation. Such a cooperative approach should help in ensuring that there will be no reduction in, or delay of, effective number conservation.

B. R3.0 versus R1.4

18. The facts demonstrate that R3.0 is superior to R1.4 for several reasons. First, R1.4 does not use efficient data recognition ("EDR"). Thus, R3.0 would involve far fewer manual processes than R1.4 and thereby improve customer service by decreasing the probability of system errors and failure. Second, R3.0 with EDR is extremely efficient, and thus less costly, from the standpoint of record storage capacity. Third, use of R3.0 at the outset avoids imposition of wasteful transition costs that would be incurred if pooling were to be implemented mere days before R3.0 availability. Fourth, use of R3.0 will avoid the importation to Florida carriers and, ultimately, to Florida customers, of R1.4 costs that are now being borne only in Illinois, New York, and California. Fifth, there are many unknowns regarding the transition from R1.4 to R3.0 that should further increase this Commission's reluctance to utilize R1.4 in the first instance.

19. R3.0 provides improved reliability with less human intervention than does R1.4. Today, a carrier that receives a thousand block from the Pooling Administrator has to notify the NPAC manually to have the thousands-block activated using R1.4. With R3.0 the carrier is able to use the Service Order Administration ("SOA") link to the NPAC to activate a thousands-block. With further automation within the carrier's OSS, the entire activation process can be automated for more efficient reliability. Because R3.0 will be integrated with the existing carrier systems it minimizes the risk of human error that is inherent in the manual processing of pooling and the associated LNP functionality.

20. With respect to the cost imposed on carriers' facilities, the absence of EDR with R1.4 means that each number in the pool must have its own record. R3.0 uses EDR, which allows one record per 1,000 number block. The EDR method allows the implementing carriers to minimize the cost to modify the SCP. Avoiding these investments would mean that other carriers and customers would not be required to pay for these costs. Likewise, without EDR carriers who inadvertently underestimate the volume of pooling transactions and do not make timely SCP upgrades face failures that would jeopardize network reliability and customer service.

21. One comparative issue that was seriously considered by the Joint Petitioners was the possibility that the R3.0 solution might not be available as advertised. As discussed above, in response to growing regulatory and customer concerns, the LLCs (which includes some of the members of the Joint Petitioners) approached NeuStar (previously Lockheed-Martin) and paid a substantial premium in exchange for a contractual obligation by NeuStar to deliver the R3.0 software 15 weeks ahead of the prior commitment. NeuStar has informed the Joint Petitioners that it is highly confident that the current schedule and contractual obligation for the delivery of R3.0 will be met. To the extent that NeuStar fails to meet its contractual obligations, NeuStar may be subject to penalities and other liquidated damages provisions.

22. Although the Joint Petitioners are firmly convinced that the costs of any implementation of R1.4 will be greater on Florida code holders and their customers than initial

implementation using only R3.0, specific, detailed cost information is not uniformly available at this time. One large incumbent LEC has estimated, based on experience in other state pooling proceedings, that the cost to the end user for implementation of R3.0 only could be in the range of 20 - 25% of the level of the existing FCC-authorized LNP surcharge. However, the direct costs of implementation of R1.4, transition to R3.0, and the subsequent costs of pooling using R3.0, could result in a cumulative cost that would lead to a separate surcharge approaching 50% of the LNP surcharge level. Alternatively, if R1.4 is the only solution used, the cost – driven by enormously expensive SCP upgrades – would possibly exceed the LNP surcharge level. These estimated R1.4 costs, potentially more than twice the costs of R3.0, are a major reason why the Joint Petitioners have chosen R3.0.

23. The difference in total costs between implementing R3.0 first, and implementing R1.4 as an interim measure, when weighed against the minimal difference in the effects on the lives of the three NPAs in the PAA Order, suggests that it would be wasteful to require the interim implementation of R1.4 in any of these NPAs. When one adds the fact that Florida carriers and customers would shoulder a disproportionate amount of the implementation costs associated with R1.4, it seems clear that any marginal benefits that might be gained from implementing R1.4 simply are not worth the costs.

24. The cost in transistion time must also be figured. NeuStar advised those participating in the March 31, 2000 Staff Workshop that there will be a two week "quiet period" when transistioning from R1.4 to R3.0 that would foreclose any pooling taking place while NeuStar and the carriers complete their work in transistioning over from the old software to the new. This two week quiet period is in addition to any other transistional requirements that the carriers and NeuStar may require – all currently unknown since the transistional requirements have not yet even been developed.

25. Finally, the R1.4 to R3.0 transition process has not been executed, much less tested, in any area to date. The possibility exists that such a transition could cause calls to fail. This risk should further increase the Commission's reluctance to utilize R1.4 in the first instance.

C. Pooling Administrator

26. The Joint Petitioners have provided in the Revised Plan that the Commission approve the appointment of NeuStar as the Interim Pooling Administrator and that the LLC and NeuStar negotiate the appropriate contract to implement the pooling. This process requires the approval of the Commission because the Interim Pooling Administrator and the LLC will be taking actions that ultimately impact all carriers. Without an explicit Commission order confirming these actions, the LLC and NeuStar may be reluctant to act or a carrier may refuse to comply with this process. However, such Commission approval does not involve this Commission becoming a contracting party to or otherwise becoming involved in the contract process. By the Commission adopting the Revised Plan and attaching and incorporating the Revised Plan into its order accepting this Offer of Settlement, the necessary Commission order

will exist that will fulfill this requirement.

D. Cost Allocation

27. Inherent in the management of the pool by Interim Pooling Administrator is the allocation of the Interim Pooling Administrator's cost among the carriers (which is different from the recovery of those costs from the carriers' customers addressed below). The FCC's Delegation Order specifically provided that such cost allocations be undertaken in a competitively neutral manner. While the Joint Petitioners were unable to develop and recommend a specific cost allocation methodology to the Commission at this time, the Revised Plan provides for a procedure that will allow this process to be concluded while not delaying the implementation of the pooling plans for the thee NPAs addressed therein. Representatives of NeuStar represented at the March 31, 2000 Staff Workshop that execution of the contract, which would include the cost allocation methodology, could occur as late at the actual start of pooling, in the case of the 954 plan this would be December 4, 2000. The Joint Petitioners believe that determination of the interim cost allocation methodology under the Revised Plan and incorporation of that methodology into the contract with the Interim Pooling Administrator will occur well before December 4, 2000.

E. Blocks for Pooling

28. The Revised Plan provides in paragraphs 1, 2, and 3 that when pooling begins in each of the respective NPAs that such pooling shall begin with uncontaminated blocks. The Joint Petitioners have set up the initial pooling in each of these three NPAs because starting pooling with uncontaminated blocks is much easier than starting with uncontaminated and contaminated blocks. However, setting forth that pooling will commence in these three NPAs with uncontaminated blocks does not mean that only uncontaminated blocks may be pooled. As is specified in paragraph 5 of the Revised Plan, the implementation process will include the development of procedures and timelines that would include the pooling of blocks with less than 10% contamination ("contaminated blocks"). This is consistent with the practices in other states. Besides the administrative ease of starting pooling with uncontaminated blocks, this procedure affords the Interim Pooling Administrator with the flexibility to start pooling with contaminated blocks when necessary. For example, when the Interim Pooling Administrator assesses the industry inventory to determine if there is a surplus or deficiency, if there is a large surplus of blocks that exceeds the forecasted needs of the carriers, then it may not be necessary for the Interim Pooling Administrator to immediately request forecasted and block protection/donation information for the contaminated blocks. On the other hand, if the Interim Pooling Administrator found a deficiency, the Interim Pooling Administrator could immediately start the process for the carriers to identify and donate contaminated blocks which could run parallel with the uncontaminated block donation process so as to minimize, if not eliminate, the need to open a new NXX to meet the needs of the pool. Thus, the Revised Plan addresses both the donation and use of uncontaminated and contaminated thousands-blocks.

F. Cost Recovery Issues

29. In its order granting authority to this Commission to conduct number pooling trials, the FCC directed this Commission to "determine the method to recover the costs" of any number pooling the Commission may order. FCC Order No. 99-249, at ¶ 17. In addition, these costs must be recovered "in a competitively neutral manner." *Id.* The FCC suggested that this Commission, in fulfilling its responsibility to adopt a cost recovery method, should model cost recovery on the mechanism adopted by the FCC in the LNP order and the guidelines in the *Numbering Resource Optimization Notice* regarding cost recovery for thousands-block pooling. *Id.*

30. In view of the potential ultimate impact of number pooling cost recovery on Florida customers, the Commission should address cost recovery. Accordingly, the Revised Plan requires that the Commission open a docket in accordance with the FCC mandate for the purpose of determining the amount of the costs of number pooling and the method by which they will be recovered. However, in the spirit of moving forward, the Joint Petitioners are willing to proceed now with all aspects of the implementation of number pooling pursuant to the Revised Plan with cost recovery being determined just so long as the Commission has acknowledged the need for cost recovery and has commited to starting the cost recovery process.

IV. Conclusion

31. The purpose of this Revised Plan is to only address number pooling and none of the other matters within the PAA Order. The Joint Petitioners shall continue to work with the Commission, other carriers, and interested persons to develop reasonable and prudent solutions to the remaining number conservation issues in Florida.

32. The terms and conditions of this Offer of Settlement are made in an effort to settle the Joint Protest filed by the Joint Petitioners in this docket on April 6, 2000, with respect to the number pooling provisions of the PAA Order. Thus, the Joint Petitioners reserve all rights if this Offer of Settlement is not approved by the Commission and incorporated into a final order in accordance with its terms.

33. This Offer of Settlement shall be valid and binding upon the Joint Petitioners only to the extent it is adopted in its entirety as presented to the Commission.

34. If this Offer of Settlement is accepted by the Commission, the Joint Petitioners shall not request reconsideration or appeal of the order of the Commission approving this Offer of Settlement in accordance with its terms.

35. In adopting this Offer of Settlement and Revised Plan, the Commission shall attach and incorporate these documents to its order.

WHEREFORE, the Joint Petitioners members offer this Revised Plan to the Commission in the spirit of cooperation and for its consideration in the ongoing effort to implement workable, efficient, and cost-effective number conservation measures for the people of Florida. We respectfully request adoption of this Revised Plan to resolve the PAA Protest filed by the Joint Petitioners on April 6, 2000.

Respectfully submitted,

(Signatures begin on the following page)

Attachment A to Exhibit 1

FLORIDA THOUSANDS BLOCK POOLING PROPOSED IMPLEMENTATION TIMELINES

Assumptions:

1. Based on INC 99-0127-023, Thousand Block (NXX-X) Pooling Administration Guidelines, Issued February 28, 2000
2. Non-contaminated Blocks
3. Pooling Administrator (PA) already selected
4. Pooling Administrator assumed to be NeuStar

TABLE 1.0

NPA 954	NPAC Release 3.0
Regulatory Mandate	
First Implementation Meeting	June 12, 2000
Forecast Report Date	June 26 2000
Block Protection Date	July 31, 2000
Block Donation Identification Date	August 2, 2000
Pooling Administrator Assessment of Industry Inventory Surplus/Deficiency	August 23, 2000
Block Donation Date	November 20, 2000
Pool Start/Allocation Date	December 4, 2000
Mandated Implementation Date	December 4, 2000
TN Assignment from 1K block	December 25, 2000

TABLE 2.0

NPA 561	NPAC Release 3.0
Regulatory Mandate	
First Implementation Meeting	August 3, 2000
Forecast Report Date	August 17, 2000
Block Protection Date	September 19, 2000
Block Donation Identification Date	September 21, 2000
Pooling Administrator Assessment of Industry Inventory Surplus/Deficiency	October 12, 2000
Block Donation Date	January 22, 2001
Pool Start/Allocation Date	February 5, 2001
Mandated Implementation Date	February 5, 2001
TN Assignment from 1K block	February 26, 2001

TABLE 3.0

NPA 904	NPAC Release 3.0
Regulatory Mandate	
First Implementation Meeting	September 28, 2000
Forecast Report Date	October 12, 2000
Block Protection Date	November 14, 2000
Block Donation Identification Date	November 16, 2000
Pooling Administrator Assessment of Industry Inventory Surplus/Deficiency	December 7, 2000
Block Donation Date	March 19, 2001
Pool Start/Allocation Date	April 2, 2001
Mandated Implementation Date	April 2, 2001
TN Assignment from 1K block	April 23, 2001

Table 1.0 Definitions from INC Guidelines:

Regulatory Mandate - The date of regulatory notification that thousand block pooling is to be implemented.

First Implementation Meeting - The meeting held by the PA for all participating SPs to develop the time intervals between the milestones.

Forecast Report Date - The deadline for SPs to report their forecasted thousand block demand.

Block Protection Date - The deadline for SPs to "protect" specified thousand blocks (those with up to 10% contamination) from further contamination.

Block Donation Identification Date - The deadline for SPs to report their surplus/deficiency of thousand blocks to the PA.

PA Assessment of Industry Inventory Pool Surplus/Deficiency - The deadline for the PA to aggregate and evaluate SP thousand block donation information and determine, on a rate area basis, whether there is a surplus of thousand blocks or whether an additional NXX code(s) is required to establish the 9 month inventory. The time interval for this activity should be established at the First Implementation Meeting.

Block Donation Date - The deadline for SPs to donate their thousand blocks.

Pool Start/Allocation Date - The date the PA may start allocating thousand blocks from the industry inventory pool to SPs. This is also the start date for SPs to send requests for thousand blocks to the PA.

Mandated Implementation Date - The date identified by the appropriate regulatory body by which thousand block pooling is to be implemented.

Once a Service Provider has been assigned a 1K Block, INC Guidelines require and interval of 21 days before a telephone number can be assigned to a customer.

Dear Ms. Bayó:

This is to advise you that the below indicated signatories to the Florida Code Holders Revised Number Pooling Implementation Plan For the 954, 561, and 904 NPAS ("Revised Plan") have agreed to the following additional provision to the Revised Plan.

> 22. In the event that the NPAC software release 3.0 specified in paragraph 4 is not available for implementation by the dates specified in paragraphs 1, 2, or 3, then the code holders shall implement NPAC software release 1.4 by the dates specified in paragraphs 1, 2, or 3. The purpose of this paragraph is to establish that number pooling shall commence on the dates in paragraphs 1, 2, and 3 using the available software.

This amendment has been authorized by the following signatories to the Revised Plan: AT&T, BellSouth, GTE, Intermedia, MediaOne, MCI WorldCom, and Sprint. With respect to the other signatories to the Revised Plan, they are continuing their internal review of this question, and they shall provide their respect positions before or during the April 18, 2000, Agenda Conference.

If you need any additional information regarding this matter, please let me know.

Sincerely,

Floyd R. Self

cc: Parties of Record

ORIGINAL

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JACK SHREVE
PUBLIC COUNSEL

February 16, 2001

Cheryl Bulecza-Banks
Division of Competitive Services
Florida Public Service Commission
2540 Shumard Oaks Boulevard
Tallahassee, FL 32399-0850

Re: Docket 001503

Dear Ms. Bulecza-Banks:

At the workshop held on December 12, 2000, you invited participants to provide you written comments about cost recovery and allocation issues for number pooling trials in Florida. I am providing these written comments to explain why price cap regulation in Florida already provides cost recovery for the local exchange companies. There is no need for a local rate surcharge, as the local exchange industry argues, nor is such a surcharge on local rates authorized by the Florida Statutes.

Prior to 1996, carriers recovered their costs through rate of return regulation. Under that paradigm, carriers recovered a reasonable rate of return on their investments, plus all prudently incurred expenses, through rates set by the Florida Public Service Commission. That changed on January 1, 1996, when the legislature granted significant regulatory freedom and flexibility to the local exchange companies in return for certainty surrounding the companies' local rates. Section 364.051, Florida Statutes, sets forth the very limited circumstances under which carriers subject to price cap regulation may increase their local rates.

There is evidence that the companies have thrived under price cap regulation. BellSouth Telecommunications, for example, refunded in excess of $195 million plus interest to customers during 1997, yet still earned a return on equity of 15.11% in Florida. 1997 was the last year during which BellSouth was

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Attachment 5

required to make any refunds, so since that time it seems likely that the company's earnings have improved significantly. BellSouth has had "cost recovery" of all of its costs since that time.

There is nothing extraordinary or unique about number pooling costs. Efficient use of these resources is part of the overall cost of providing telecommunications services. Companies incur a wide variety of costs to provide telephone service, and the nature of these costs continually changes as the industry itself evolves. The companies can not pass through each of their costs as special surcharges to local rates, and the costs of conducting number pooling trials should be no exception.

Nothing in the FCC's orders requires anything more than the cost recovery mechanism afforded by Florida's price cap statute. While it is true that the costs incurred by carriers to implement state-mandated thousands-block number pooling are intrastate costs[1], the FCC's interpretation of section 251(e)(2) of the Telecommunications Act does not guarantee any particular return or require the Commission to guarantee that carriers recover all their thousands-block number pooling costs[2]. Moreover, the Florida Public Service Commission is bound by chapter 364, Florida Statutes. The FCC does not have the power to require the Florida Commission to take an action that is not authorized by Florida Statutes, such as raising local rates through a surcharge, when the price cap statute does not allow such an increase.[3]

Although price cap regulation places strict limits on the companies' ability to raise local rates, the statute also provides a mechanism if the companies should encounter a substantial hardship. Under section 364.051(4), Florida Statutes, any local exchange company that believes circumstances have changed substantially to justify any increase in local rates may petition the Commission for a rate increase, but the Commission may grant such a petition only after an opportunity for a hearing and a compelling showing of changed

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[1] *Numbering Resource Optimization, First Report and Order*, FCC 00-104 released March 31, 2000, para. 197.
[2] *Id.*, para. 200.
[3] Also note that so far the FCC has not authorized a federal charge on end users for federal thousands-block number pooling costs. *Numbering Resource Optimization, Second Report and Order*, FCC 00-429 released December 29, 2000, para. 180-181.

circumstances. This mechanism is always available to the companies if they believe they are not recovering their cost of providing telephone service.

Sincerely,

Charles J. Beck
Deputy Public Counsel

cc: Division of Records and Recording
All parties of record

Legal Department

JAMES MEZA III
Attorney

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Tallahassee, Florida 32301
(305) 347-5561

February 16, 2001

Mrs. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 001503-TP (Number Pooling Trials)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Comments, which we ask that you file in the above-referenced matter.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

James Meza III

cc: All Parties of Record
Marshall M. Criser III
Nancy B. White
R. Douglas Lackey

DOCUMENT NUMBER-DATE
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Attachment 6

CERTIFICATE OF SERVICE
Docket No. 001503-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U.S. Mail this 16th day of February, 2001 to the following:

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James Meza III
JAMES MEZA III

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

Cost Recovery and Allocation Issues for Number Pooling Trials in Florida	)	Docket No. 001503-TP

COMMENTS OF BELLSOUTH

February 16, 2001

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COMMENTS OF BELLSOUTH

I. INTRODUCTION

The Florida Public Service Commission ("FPSC" or "Commission") is leading the BellSouth states into a new era of number conservation. Over the past two years, the Commission has been at the forefront of number conservation matters on a regional and national level. As a result of the Commission's and industry's efforts, Florida is in a state of transition between (1) the old numbering regime of receiving 10,000 telephone numbers when numbering resources are needed and (2) the new numbering regime of only receiving 1,000 telephone numbers (number pooling). The focus of the Commission's and the Federal Communication Commission's ("FCC's") efforts is to create an environment were the best possible utilization of numbering resources is achieved. Although the industry may not agree with every aspect of the various regulatory directives, BellSouth generally believes that the new regime will provide for better utilization of the numbering resources than in the past. However, as the Commission is well aware, there are costs associated with the transition to this new regime. The implementation of number pooling raises significant technical and cost considerations similar to those experienced in implementing number portability. In the FCC Order (FCC 99-249) released on September 15, 1999, the FCC requires, "that the Florida Commission determine the method to recover the costs of the pooling trials. The Florida Commission must also determine how carrier-specific costs directly related to pooling administration should be recovered." The Commission has exercised its delegated authority to require carriers in Florida to implement various number pooling

trials. Therefore, BellSouth believes the Commission should proceed with the implementation of an interim cost recovery mechanism until such time as a national mechanism is in place. Once the national recovery mechanism is in place, BellSouth believes that the Commission's mechanism should be evaluated to ensure the total cost of implementing number pooling is fully recovered via either the state or national recovery mechanism.

II. FEDERAL LAW GOVERNS THE COMMISSION'S IMPLEMENTATION OF A COST RECOVERY MECHANISM

Congress granted the FCC exclusive jurisdiction over those portions of the NANP that relate to the United States. 47 U.S.C. § 251 (e)(1); FCC Order 99-204 at ¶ 7. However, the FCC can and has delegated to the state commissions all or portion of that jurisdiction, which is exactly what it did in this case. Recognizing that it lacked the authority to implement specific conservation measures, the Commission petitioned the FCC for authority to implement various area code conservation measures, including number pooling. *See* FCC Order 99-204 at ¶ 1. The FCC granted the request, with certain conditions. One of the conditions was that the Commission develop a mechanism that would allow BellSouth to recover the costs associated with number pooling in a competitively neutral manner. Id. at ¶ 17. Specifically, the FCC stated:

> We further require that the Florida Commission determine the method to recover the costs of the pooling trials. The Florida Commission must also determine how carrier-specific costs directly related to pooling administration should be recovered. The Commission has tentatively concluded that thousands-block number pooling is a numbering administration function, and that section 251(e)(2) authorizes the Commission to provide the distribution and recovery mechanisms for the interstate and intrastate costs of number pooling. We conclude that

> inasmuch as we are hereby delegating numbering administration authority to the Florida Commission, the Florida Commission **must abide by the same statute applicable to this Commission, and, therefore, ensure that costs of number pooling are recovered in a competitively neutral manner**.

Order 99-249 at ¶ 17 (emph. added).

Absent delegation of authority from the FCC, the Commission is without authority to implement number pooling or any other area code conservation measure. Consequently, the Commission must abide by federal and not state law in implementing area code relief.

Indeed, in the Number Utilization Study docket, 981444-TP, the Commission recognized this very point and acknowledged that the "FCC's rules and orders requir[ed] [it] to resolve any matters related to cost recovery under the federal law . . . ." *See* Order No. PSC-00-1046-PAA-TP at 9. As stated by the Commission, this means that any order arising from the cost recovery docket "will follow applicable federal law." *See* Order No. PSC-00-1527 at 13. For these reasons, BellSouth does not believe that Florida's price regulation statute or any other state statute applies to the FCC's mandate that the Commission implement a competitively neutral cost recovery mechanism. Even if the price regulation statute was applicable it would not be triggered if the Commission structured the cost recovery mechanism as a line-item surcharge on each customer's bill. Such a charge would not constitute a change in rates and therefore not come within the confines of the price regulation statute. The FCC previously adopted this type of cost recovery mechanism in the number portability proceeding.

III. THE COMMISSION SHOULD PROCEED WITH ESTABLISHING AN INTERIM COST RECOVERY MECHANISM

At the Workshop conducted on December 12, 2000, several parties believed the FPSC should not establish an interim cost recovery mechanism. Instead, they urged the Commission to wait until the national cost recovery mechanism is developed and then attempt to recover the interim costs within the national mechanism. BellSouth does not believe it is appropriate for this Commission to delay development of an interim cost recovery mechanism for two main reasons.

First, BellSouth is currently incurring considerable cost in modifying its network and operational support systems to implement number pooling in Florida. Since the inception of the Commission's efforts on number pooling, BellSouth has carried the financial burden of implementing number pooling. BellSouth does not believe it is appropriate for it to continue to shoulder the cost without the ability to begin cost recovery in the very near future.

Second, BellSouth is unsure as to when recovery via a national cost recovery mechanism will be available. The FCC has indicated that it will not begin implementation of the national number pooling until nine (9) months after it has selected a national pooling administrator. As with number portability, this does not constitute the beginning of cost recovery. BellSouth notes that with number portability it completed implementation for the top 21 MSAs in BellSouth's region by December 1998, although the cost recovery did not start until May 1999. Currently, the FCC has issued a Request For Proposal ("RFP") in an attempt to select a national pooling administrator. BellSouth does not know when the national pooling administrator will be able to assume its duties

for the state as well as the national pooling areas. Until such time, the Commission continues to request BellSouth to implement more pooling trials without the ability to recover any costs associated with implementing number pooling in the state of Florida. Therefore, BellSouth believes that the Commission should continue to develop and implement an interim number pooling mechanism as soon as possible, which would allow BellSouth to recover its costs at this time.

IV. SHOULD THE COMMISSION CONTINUE TO DEVELOP AN INTERIM MECHANISM IN THE ABSENCE OF DETAILED COST INFORMATION?

BellSouth is in the process of quantifying the costs associated with number pooling. BellSouth is unable, however, to provide a detailed cost study at this time. BellSouth is currently preparing such a study and will provide more information to the Commission once it is available. BellSouth expects it will complete its cost study by the end of May 2001.

The lack of cost information, however, should not preclude the Commission from establishing an interim cost recovery mechanism, since the cost recovery mechanism is not dependent of the types of costs. BellSouth therefore urges the Commission to move quickly and develop an interim cost recovery framework even in the absence of extensive cost data.

V. WHAT METHODOLOGY SHOULD THE COMMISSION USE IN THE DEVELOPMENT OF A COST RECOVERY MECHANISM?

In its NPRM, the FCC concluded, "the costs of thousands-block number pooling: (a) should not give one provider an appreciable, incremental cost advantage over another when competing for a specific subscriber; and (b) should not have a disparate effect on competing providers' abilities to earn a normal return."[1] BellSouth believes that the cost recovery mechanism established for number portability with minor modifications is an appropriate framework for recovering the costs associated with the implementation of state specific pooling trials. Specifically, the Commission should allow, but not require, incumbent LECs to recover their carrier-specific costs directly related to providing number pooling through a charge assessed on end-users. Those carriers not subject to rate regulation (*e.g.*, competitive LECs, CMRS providers, and non-dominant IXCs) should be permitted to recover carrier-specific costs directly related to providing number pooling. This state specific charge should be similar to the federal charge that the FCC has allowed for number portability. The state charge should be allowed for a limited time only (e.g. two years) and appear as an explicit charge on the end-user's bill.

In the number portability cost recovery mechanism adopted by the FCC, there were several allowances made for certain types of facilities and services such as trunks and lifeline service. Although BellSouth believes the allowances in the number portability recovery mechanism were reasonable, BellSouth believes whatever

[1] *NRO Order*, ¶ 199.

mechanism is established by the Commission should be simplistic in nature and would eventually role into a national cost recovery mechanism.

As stated before, BellSouth intends to file a detailed cost study with the Commission justifying and explaining the costs to be recovered for number pooling implementation in Florida. BellSouth believes the Commission can audit these costs to verify to its satisfaction the recovery amount proposed by BellSouth. Therefore, BellSouth recommends that the Commission adopt a framework similar to number portability and require a carrier seeking recovery via the state cost recovery mechanism to file a cost study with the Commission. However, since BellSouth believes the framework should be simple to administer due to its interim nature, BellSouth proposes that all of the Florida specific costs and an allocated portion based on access lines of the regional costs associated with number pooling be assigned to Florida for recovery. The allocation of the regional costs would be approximately 27% of the total regional costs based on December 30, 2000 access line data. When the national mechanism is implemented, BellSouth proposes that the costs for number pooling be evaluated to determine, at that time, whether the end-user charge should continue or roll into the national cost recovery mechanism. BellSouth believes that because all customers would benefit from number pooling, the state end-user charge should be applied to each access line and should not include any allowances discussed above, except for the exclusion of lifeline service.

VI. THE NETWORK MODIFICATIONS, OSS MODIFICATIONS, AND COSTS ASSOCIATED WITH IMPLEMENTING NUMBER POOLING ARE SUBSTANTIAL, AND ANY COST RECOVERY MECHANISM ADOPTED MUST PROVIDE FULL COST RECOVERY.

In the absence of a detailed cost study, BellSouth identifies below the various types of costs already incurred and modifications made in implementing number pooling. This assessment, however, is preliminary, and it is likely that BellSouth will incur additional or different costs from those included herein. Nevertheless, BellSouth believes that the Commission will find the information helpful. As a point of reference, BellSouth believes the Florida specific costs for number pooling would be approximately $3.1 million and the regional costs would be in the range of $121 to 146 million. BellSouth wants to make clear that this is its best estimate for number pooling costs at this time. BellSouth notes that these costs are fully loaded and have not been evaluated to determine if portions of these costs should be excluded.

A. Cost Categories For Thousands-Block Number Pooling ("TNP")

The *NRO Order* adopted three categories of costs for thousands-block number pooling: (1) shared industry costs (or "Type 1" costs);[2] (2) carrier-specific costs directly related to thousands-block number pooling implementation (or "Type 2" costs);[3] and (3) carrier-specific costs not directly related to thousands-block number pooling

[2] The Commission defines shared industry costs as those costs incurred by the industry as a whole (including NANP administrator costs, and enhancements to the number portability regional database). *NRO Order*, ¶¶ 201, 203.

[3] Carrier-specific costs directly related to thousands-block number pooling are those costs associated with enhancements to various carriers systems (*e.g.*, enhancements to service control points, local service management systems ("LSMS"), service order administration ("SOA"), and operations support systems). *NRO Order*, ¶¶ 201, 203.

administration (or "Type 3" costs).[4] The FCC further concluded that shared industry costs (Type 1 costs) and carrier-specific costs directly related to pooling (Type 2 costs) would be subject to cost recovery.[5]

BellSouth believes that the Commission should adopt these categories since any national pooling cost recovery mechanism will encompass the same general categories. BellSouth identifies below the categories of Type 1 and Type 2 costs that the Commission should include in the interim cost recovery mechanism. BellSouth intends to include these costs in its cost study.

1. Shared Industry Costs

Shared costs are the costs incurred by the industry to build, operate, and maintain the databases needed to provide number pooling. Once a carrier's share of the Type 1 costs is defined and allocated, that share will become a carrier-specific cost directly related to the provision of thousands-block pooling in Florida, *i.e.*, a Type 2 cost. Accordingly, BellSouth plans to include all shared costs allocated to it in its cost study.

a. Number Portability Administration Center ("NPAC") Upgrade And Ongoing Costs

The NPAC Service Management System database contains all necessary routing information on ported numbers and facilitates and the updating of the routing databases of all subtending service providers in the portability area. Currently, the NPAC is running Release 2.0 software with 1.4 pooling functionality. The Southeast Region NPAC, which serves BellSouth, will be updated with Release 3.0. The North American

[4] *NRO Order*, ¶¶ 201, 203.

Portability Management Limited Liability Committee and NeuStar, administrator of the Southeast Region NPAC, are currently negotiating the terms and conditions of an agreement to implement Release 3.0 software. BellSouth will seek recovery of all costs associated with the NPAC that are related to number pooling. BellSouth will not seek to recover the incremental cost of the 1.4 functionality, which is required to implement number pooling.

b. Interim Pooling Administrator

The interim pooling administrator (NeuStar) has the following high-level responsibilities to support participating service providers in the Florida pooling trials: (1) general administrative duties; (2) forecasting and planning; (3) number assignment; and (4) block reclamation. NeuStar has constructed and is maintaining the databases for Florida's number pooling trials. As a result of the industry's agreement, a carrier's allocated share of these Type 1 costs will be based on that carrier's total intrastate, interstate, and international telecommunications end-user revenue. BellSouth's allocated share of these costs are fully recoverable and will be included in its cost study, except for any transitional costs that may be incurred to transition 1.4 records to 3.0 records.

2. Carrier-Specific Costs Directly Related To Providing Thousands-Block Number Pooling

Carrier-specific costs directly related to thousands-block number pooling are those costs associated with updates to carriers' networks (including LSMS, SCP, and OSS systems), as well as, each carrier's allocated portion of shared industry costs, as

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[5] *Id.*, ¶ 207.

discussed above. In its *NRO Order*, the FCC concluded that allowing carriers to recover their own carrier-specific (Type 2) costs is consistent with the competitive neutral requirements of Section 251(e)(2).[6] The FCC also adopted the same "but for" test used in the number portability proceeding in order to identify carrier-specific costs directly related to thousands-block number pooling. Under this "but for" test, costs are eligible for recovery only if they satisfy the following two requirements: (1) the costs would not have been incurred by the carrier "but for" the implementation of thousands-block number pooling; and (2) the costs were incurred "for the provision of" thousands-block number pooling.[7]

BellSouth is incurring – and will continue to incur – significant costs in providing thousands-block number pooling ("TNP"). The subsection below describes the carrier-specific costs directly incurred by BellSouth in the provision of TNP. BellSouth submits that each of the identified costs satisfy the "but for" test and are therefore eligible for full cost recovery. BellSouth categorizes these costs as: (a) network costs; (b) OSS and service management system ("SMS") costs; and (c) employee-related and other costs

a. Network Costs

(1) Network Software Costs Dedicated Exclusively To Providing Thousands-Block Number Pooling

i. TNP Service Package Application ("SPA") Enhancement

BellSouth is developing additional call processing and routing logic required for thousands-block pooling. The Service Package Application ("SPA") is software installed

[6] *Id at* ¶ 209.

[7] *NRO Order* at ¶¶ 217-218.

on BellSouth's Service Control Points ("SCPs") that provide routing instructions to the central office switch. The logic required for thousands-block number pooling is distinct from, and not included in, the existing porting and default routing logic. The call processing hierarchy requires the following determination: first, whether a number is ported; second, if that number is ported, whether the number is also pooled; and, third, if the number is neither ported nor pooled, whether to default route the call. BellSouth considers the costs associated with this modification to be fully recoverable as "dedicated" costs.

ii. Switch Feature Software Upgrades - 5ESS, DMS 100, And EWSD

In order to provide TNP BellSouth must perform feature upgrades to certain switches. One such upgrade is to install the TNP feature software, which is used solely for the purpose of providing TNP. The costs of such upgrades are fully recoverable as carrier-specific costs directly related to the provision of number pooling. Number pooling switch requirements include the need to denote an unallocated directory number or a range of directory numbers so that calls routed to these numbers will not receive error treatment.

(2) Network Hardware And Software Joint Costs Directly Related To Providing Thousands-Block Number Pooling

BellSouth will incur both hardware and software costs that are only partially related to the provision of TNP (*i.e.*, joint costs). The *NRO Order* defines joint costs as "incremental costs associated with new investments or expenses that directly support thousands-block number pooling and also support one or more non-number pooling

functions."[8] The following describes the circumstances under which BellSouth will incur joint costs and, in some instances, identifies the method BellSouth proposes to use to allocate the appropriate amount of costs to TNP. If no allocation method is identified, BellSouth will provide such information in its forthcoming cost study.

i. Service Control Point Hardware And Software – Processor And Memory Upgrades

BellSouth will upgrade its SCPs specifically for the purpose of providing TNP. These SCPs house the database that contains routing information for ported and now pooled numbers. A SCP receives the called number in a query from a Service Switching Point ("SSP") and responds with routing instructions that enable the SSP to complete the call. The query and the resulting routing instructions travel over the Common Channel Signaling Network ("CCSN" or "SS7" Network). Random Access Memory ("RAM") upgrades will be required on some SCPs. SCPs will be upgraded with Model 2+ processors to provide sufficient Central Processor Unit ("CPU") capacity to serve pooling query demand as a result of the increased cycle time required to process TNP queries. The costs associated with these hardware and software modifications are fully recoverable joint costs. BellSouth will determine the allocation method in its forthcoming cost study.

ii. Switch Hardware – Processor Upgrades

Thousands-block number pooling will require BellSouth to increase the overall call-processing capacity of some switches due to the query/response traffic associated with the database lookups to obtain call routing information for calls to pooled or ported numbers. BellSouth is in the process of assessing the processor capacity of each

[8] *NRO Order*, ¶ 221.

individual central office. BellSouth proposes to allocate a portion of these joint costs to TNP based on the percentage of processor utilization attributable to BellSouth's TNP query/response traffic. BellSouth is evaluating what portion of these costs it will include in a cost study filing.

iii. Switch Generic Software Upgrades – 5ESS, DMS 100, And EWSD

BellSouth routinely upgrades base operating system software for its 5ESS, DMS-100, and EWSD type switches. However, the upgrades will be advanced in order to provide TNP. BellSouth is currently evaluating what portion of these costs it will include in a cost study filing.

iv. Hardware And Software For BellSouth NPAC Interface System

The BellSouth Number Portability Administration Center ("NPAC") Interface System serves as the interface between NPAC, the internal-BellSouth OSS systems, and the Alternative Local Exchange Telecommunications Company (ALEC) interface systems that currently support LNP and will shortly support TNP. LNP and TNP require interaction and coordination among ALECs, the NPAC, and internal OSS systems. BellSouth uses a number of systems to both automate and provide interfaces for BellSouth service representatives to coordinate activities among the various systems. The TNP enhancements will support NPAC and Pooling Administrator processes that allocate NPA-NXXs at the thousands-block level within rate centers.

These enhancements would not have been incurred but for the implementation of number pooling and therefore will be carrier-specific costs directly related to number

pooling. At this time, BellSouth proposes to allocate a portion of the costs associated with updating hardware and modifications to software as fully recoverable joint costs.[9]

b. OSS And Service Management System ("SMS") Hardware And Software Costs

Operations Support Systems ("OSS") Costs. A significant portion of the costs that BellSouth will incur to implement TNP will be associated with modifications to its OSS systems. The implementation of pooling requires the modification of every system that handles telephone numbers, which is a substantial number of systems. The provision of LNP involved significant and fundamental network changes for call routing and call processing. The implementation of TNP is just as significant. TNP requires fundamental changes to essentially every system that currently relies on the NXX portion of the 10-digit NANPA telephone number as a primary data source.

Attachments A and B provide a brief summary of the BellSouth OSS systems impacted by TNP. This list identifies the OSS systems by functionality (*e.g.*, pre-ordering, ordering, provisioning, and billing) and describes the system changes necessary to accommodate TNP.

Service Management System ("SMS") Costs. BellSouth must adapt its Advanced Intelligent Network SMS ("AIN-SMS") to manage the SCPs and their databases. The AIN-SMS receives ported and/or pooled number information broadcast from the NPAC (via the BellSouth Gateway), processes that information, and downloads it to the appropriate SCP. Upgrades to the AIN-SMS will be required primarily to (a) support a

[9] A preliminary assessment indicates that these costs are actually a combination of both dedicated and joint costs. Although BellSouth has included these costs solely in the joint-cost section for purposes of these comments, our final cost study will likely apportion these costs between dedicated and joint costs.

new port type called "Pool" and (b) modify database schema and associated logic to support the Efficient Data Representation.[10] These upgrades provide the fundamental capability to distinguish a pool query and provide the database efficiency of representing a thousands-block as a single record and are directly attributable to number pooling. Accordingly, BellSouth proposes to allocate a portion of these joint costs to TNP.[11]

c. Employee-Related and Other Costs

As described more fully below, BellSouth has employees dedicated to working on projects for the implementation of TNP. The costs associated with these TNP projects, including employee-related costs, are fully recoverable as Type 2 costs.

(1) Translations

BellSouth incurs labor costs in performing translations[12] to provision TNP-feature software and in applying directory number markings (*i.e.*, reserved or ported-out). These translations are needed to specify the directory numbers for which the switches will launch queries to the TNP databases.

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[10] Efficient Data Representation ("EDR") allows the storage of large blocks of numbers as a single record. This capability is included in NPAC Release 3.0 and is deemed essential for the long-term implementation of thousands-block number pooling because it significantly increases the storage capacity in network elements such as the service control points.

[11] A preliminary assessment indicates that these costs are actually a combination of both dedicated and joint costs. Although BellSouth has included these costs solely in the joint-cost section for purposes of these comments, our final cost study will likely apportion these costs between dedicated and joint costs.

[12] A translation is a process in which an employee prepares tables to identify the proper routing for a switch.

(2) Network Infrastructure

BellSouth has employees dedicated to network infrastructure planning and implementation. These employees are responsible for ensuring that all aspects of TNP, including network hardware and software upgrades, are properly designed and implemented.

(3) Science & Technology

BellSouth has within its Science & Technology organization employees dedicated to working on the implementation of TNP. These employees: (1) write software requirements for the various BellSouth systems; (2) test vendor software for TNP; (3) test software written internally; and (4) support field groups if problems are encountered during TNP implementation.

(4) Project And Administrative Management

BellSouth has employees dedicated to performing specific job functions associated with TNP, including project management, business planning, and field support. BellSouth also employs independent contractors to support the implementation of TNP.

(5) Training

Training will be provided to all center employees (*e.g.*, residence and business repair centers) impacted by thousands-block number pooling. This training will be developed and delivered by BellSouth employees or outside contractors. Training will be based on the needs of each specific center.

(6) Number Administration

BellSouth has established the Block Administration Center (BAC) to handle the number pooling administration in a TNP environment. These employees are responsible for the day-to-day administration of TNP within BellSouth's region. To date, the majority of these efforts have been supporting the Florida pooling trials.

* * *

As demonstrated above, the implementation of thousands-block number pooling is a massive undertaking that generates substantial costs. BellSouth has identified a preliminary list of the costs it will incur to provide TNP. The costs are directly attributable to the provision of number pooling and satisfy the "but for" test: Consequently, BellSouth intends to treat such costs as fully recoverable when it files its cost study in this proceeding. In some instances, functionality developments or software upgrades made to provide TNP will also support other services. In those instances, BellSouth plans to allocate only a portion of the costs to TNP for cost recovery purposes.

VII. CONCLUSION

BellSouth believes the Commission should continue to move forward with the development of an interim cost recovery mechanism for number pooling as discussed above. In addition, BellSouth believes the Commission has the authority pursuant to its delegated authority to allow carriers to recovery their number pooling costs via an end-user line change. BellSouth also believes the carriers should file a cost study supporting their proposed end-user charge. Further, BellSouth believes that once the FCC's cost recovery mechanism is established, the Commission and any carrier with an end-user

charge should evaluate whether such a charge is still appropriate to recover number pooling costs.

Respectfully submitted this 16th day of February, 2001.

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Attachment A

Requirements for Number Pooling that must be provided in Mechanized Systems

Pre Ordering

BONIS, COFFI, PSIMS

- Ability to recognize NPA-NXX-X
  - Numbers that are pooled and not available to BST for assignment
  - Numbers that have been donated to a CLEC
  - Numbers that were previously CLEC numbers now available in BST for assignment
  - Numbers that were previously BST numbers but have been donated to another BST switch

Ordering

ACCESS, CSPS, LESOG, RIGHTTOUCH, RNS, ROS, SOCS, SONGS, DBAS II, DOE/DSAP, LIDB, CARE, MISOP, BCOS, VNS, MECHSO, LIST

- Ability to recognize NPA-NXX_X
- Ability to populate required fields on all inward action orders for downstream processing
  - Serving EXK (used to correctly route calls to the correct switch)NXX no longer determines routing since number ranges can be spread across multiple switches in a TMRC (previously only PI activities had EXK)
  - Serving TTRA (used to correctly bill calls) can be different than EXK
  - LRN is also being added to the SO (since we are in that SO code) this provides the necessary information to route and perform trouble resolution for M&R
- Ability to process intra company ports – currently PI can only occur on CLEC numbers

Provisioning

ATLAS, ARTS, HAL, LEACS, LEIS, MARCH, NSDB, OM, PAWS, SOAC, SWITCH, WFA/C, BAC, DBRT, LAUTO, LION, RSAG, CNUM, ISP, LNP Gateway

- Ability to recognize and process EXKs, LRNs, on all inward action orders
- Ability to recognize and process intra-company ports

Billing

CABS, CRIS, MATV, BAMS, BOCABS

- Ability to recognize, store and bill on TTRA passed on SO
  - Currently TTRA equates to a NPA-NXX which is no longer specific enough for billing

Requirements for Number Pooling that must be provided in Mechanized Systems

- Ability to recognize and process intra-company ports

M&R

LMOS FE, LMOS HOST, SNECS, TAFI, LNP TAG, TAP, PREDICTOR

- Ability to recognize and properly route trouble/trucks based on NPA/NXX-X

E911

911 GW, 911 DB

- Change required to process intra company porting orders – currently porting orders require port out from old service provider with corresponding port in from new service provider. NPA-NXX tables must be enhanced to support NPA-NXX-X.

NUMBER POOLING
SYSTEMS AND DESCRIPTIONS

SYSTEM	DESCRIPTION	VENDOR	PROVISIONING	M&R	ORDERING	BILLING
ACCESS	Advertising Consolidated Customer Employee Support System - New system for White and Yellow Pages Publishing, Billing and Distribution	BAPCO			X	X
ARTS	Advance Routing and Trunking System - Provides NPA, NPA-NXX routing instructions to NISCs for building translations.	BST	X			
ATLAS	The ATLAS acronym stands for Application for TN Load, Administration, and Selection. ATLAS acts as a warehouse for storing telephone numbers that are available for assignment by the negotiation systems. ATLAS has grown to include inventories of circuit ID's, group numbers, and other switch specific information. Future demand for more switch specific information is anticipated. LNP and full TN administration functions will soon be part of ATLAS.	BST	X			
BAMS	Banded Area Measured Service Not Impacted by TNP.	BST			X	X
BAC (PBAC)	Pooling Block Administration Center - The Block Administration Center will be a new center whose functions are defined in the Number Pooling Service Mapping document. One JG59 and two JG58 managers are requested for **2H99** to begin planning and decision-making to establish the center. ***(See attachment for "layout" of new TN Administration staff-center group which has been OK'd as part of the overall Centers Plan in the Network organization.)***	N/A	X			
BCOS	ESSX Order Management System Scheduled for 1.5					
BOCABS	System that houses CAB Loop Accounts and also Inter-exchange Carrier Accounts. Not impacted by TNP.	BST			X	X
BONIS (BellSouth Online NXX Information System)	BellSouth Online NXX Information System - NPA/NXX assignment inventory. BONIS issues Code Memorandums for new or changed activities on NXXs. System to verify no cross-boundary conflicts & provide feed to P/SIMS (svc reps access this data via COFFI). Generate CO Code Memo's.	BST	X			
CABS	Carrier Access Billing System - This system bills access services to customers.	BST				X
CARE	Customer Account Record Exchange - The vehicle by which our Inter-exchange carrier customers can and/or receive information on end user PIC (Preferred Inter exchange Carrier) , changes/selection and /or information relating to the end user billing account.	BST				X
CNUM	Customer number / systems provides TN administration capabilities.					
COFFI	The Central Office Features File Interface (COFFI) is used by the service related systems, SONGS, DSAP, DOE, BOCRIS, RNS, ROS, Quantum to access information on service, features, and PIC/LPIC Carrier data. The database content is loaded from a batch job that feeds daily updates from the Products/Services Inventory Management System (P/SIMS). COFFI does not have access to specific switch availability, therefore, every NPANXX for the entire state must display the data that is loaded only into COFFI. This is usually a specific service such as a class of service and is not done on a wholesale basis. USOC specific data is loaded by a batch update job that reads the contents of a USOC database, the DB2 COFFI/DSAP USOC Database. This job runs each month on the first work day when the on-lines come down. It is possible to request a "Non-Scheduled Run" to distribute between the regular scheduled monthly runs, but in order to keep costs to a minimum for the corporation, it is requested to utilize the regular scheduled run dates as often as possible.	BST			X	
CRIS/BOCRIS	This system maintains all BST customer account records needed to provide customer service. These records are databases containing information such as customer billing and collection data, deposits, listing information, service equipment, PIC service, and revenue summary records. BellSouth Billing Inc. maintains ownership and oversight over CRIS Accounts ongoing maintenance and development. CRIS Accounts is used to render approximately 16 million BellSouth bills per month to BBS, Small Business, Consumer, and select NCS customers. BOCRIS, which is a customer record retrieval system, is a subsystem of CRIS and provides on-line random access to customer records for account inquiry use by Customer Services, Public, BellSouth	BST			X	X

NUMBER POOLING
SYSTEMS AND DESCRIPTIONS

SYSTEM	DESCRIPTION	VENDOR	PROVISIONING	M&R	ORDERING	BILLING
	Billing, Network and BAPCO. CRIS Accounts is the key BST repository of customer data and extract source for CRIS Studies, SIW, and various Marketing Information systems.					
CSPS	Complex Services Profile System – On line system to support Marketing & network in the design, marketing, & provisioning of complex and digital transport services. Mechanizes inquiry & order documents and other generation for specific services. Scheduled for 1.5	BST	X		X	
DBAS II	The DBAS II system is used to update the BellSouth Line Information Database (LIDB). Inter-exchange carriers access interconnected BOC LIDBs to validate calling card numbers, bill to third numbers, and collect calls. Not impacted by TNP.	Telcordia			X	
DBRT	Database Reconciliation Tool Not Impacted by TNP.	BST	X			X
DOE/DSAP	Direct Order Entry/DOE Support Application - DOE is a mechanized order negotiation & generation system using screens & menus, on-line access to CRIS, on-line editing of orders and automatically generating most common order data entries. DOE is a distributed system operating on AT&T 3B2-400 micros.	BST			X	
E911/Gateway	Forwards appropriate recent change messages to the appropriate E911 tandem.	BST	X			
E911	Batch process supports updating TN / Address information / provides correct routing for emergency purposes.	BST	X			
HAL	Hands-Off Assignment Logic - HAL mechanically handles Requests for Manual Assistance (RMAs) for the Loop Assignment Centers through terminal emmulation software. HAL is used as an interface to handle errors detected in ATLAS that must be reported back to COSMOS. Error codes and associated TN's are provided by ATLAS to HAL. HAL then goes to COSMOS to correct the TN's there.	BST	X			
ISP	Installation Support Package - With ISP, Installation work items are automatically entered from the operating company (BST) service order network (SOCS) into the LMOS/WM for testing, dispatch, and completion.	Lucent	X			
LAUTO	LNP Automation - Mechanically generates LNP SO which include Trigger, Port-out orders, listing only orders CABS and CRIS loops	BST	X		X	
LEACS	LMOS Errors and Analysis Correction System – Terminal emulation for error resolution.	BST		X		
LEIS	Loop Engineering Information System - LEIS is an OSP Telcordia decision support system that supports planning, design and assignment. The LEIS application modules include LEAD, ESM, PLAN, CARL, LAD, DILEP, DART and LEIM.	Telcordia	X			
LESOG	Local Exchange Service Order Generated	BST	X			
LIDB	Line Information Database - LIDB is a Network Element that provides calling card validation and billed number screening information for alternately billed calls. BellSouth, all other RBOCs, ITCs, and ICs access LIDB for calling card validation and billed number screening information. Not impacted by TNP.	Telcordia			X	
LION	Intercept System		X			
LIST	On-line service order processing system, that provides data to DAS/C, CNA, EWP, & BAPCO & 63 products.	Non Ntwk Sys			X	
LMOS-FE	Loop Maintenance Operations System – Front End - Application used to enter status, track and test customer trouble reports & service orders. (POTS & Non-Designated)	Lucent		X		
LMOS HOST	Loop Maintenance Operations System - Application system that maintains customer line information to support trouble processing.	Lucent		X		
LNP GATEWAY	Interface between NPAC (Number Portability Administration Center) & Legacy System.	BST		X	X	
LNP TAG - Trouble Admn	Provides RRC/BRC/UNE maintenance centers with a manual interface with the LNP Gateway to send queries to the NPAC and update the AIN/SMS.	BAT		X		

NUMBER POOLING
SYSTEMS AND DESCRIPTIONS

SYSTEM	DESCRIPTION	VENDOR	PROVISIONING	M&R	ORDERING	BILLING
– GUI						
MARCH	MARCH is a Telcordia developed memory administration system that translates line-related service order data into switch provisioning messages and automatically transmits the messages to targeted stored program control system switches. Currently deployed on AMDAHL Platform.	Telcordia	X			
MATV	Mechanized AMA Testing and Validation system automates Central Office AMA testing and validation.	BST	X			
MECHSO	Mechanized Service Order Generator - Mechanically generates service orders for various departments, based on the application logic and the 'trigger' file provided to the process.	BST			X	
MISOP	Mechanized Input to the Service Order Processor - MISOP is a mechanized service order generator for six systems. Each of these users have distinct requirements of MISOP in terms of service order generation. MISOP takes each of these inputs and generates a service order with entries into SONGS or DSAP. The users of MISOP are RightTough, RBOCRIS On-Line Treatment System, Complex Services Profile System (CSPS), Independent Company Number Services, Directory Delivery Notification System (DDNS), Public Communication Information System (PCIS). MISOP has a front-end system, MISOP Interface (MINT), which is utilized by RightTouch for order generation and BOCRIS billing. RightTough has responsibility for the MINT program.	BST			X	
NSDB	Network and Services Database - NSDB is a Network database that is Telcordia-developed and - maintained. It stores customer and circuit data for special service, message, carrier, and enhanced non-designed services. It receives data from SOAC and the TIRKS systems and provides data for NMA, ITS, and WFA/C. NSDB will become an OSCA Data Layer Building Block.	Telcordia	X			
OM	Order Manager - Provisions the establishment & disconnection of QUICK Service lines via the service order provisioning process.	BST	X			
PAWS	Provisioning Analyst Workstation – PAWS system will allow for a common integrated approach to multiple work center tasks. Initially, targeted for the LAC, CPC, NAC.	Telcordia	X			
P/SIMS	Product Services Information Management System - P/SIMS is an on-line mechanized system that provides, at the central office switch level, current and planned service availability, tariff and inventory information for all Network Services. There are seven groups of screens supporting reports of carrier information, equal access services/features information, switch/CLLI and ONA plus lists and reports.	BST	X		X	
PREDICTOR	Predictor is a computer based system that monitors ALIT messages from electronic switches and alarms from cable pressure system. It has the PC based application that provides reports,. Graphs, analysis on products/service revenue and unit data.	LET		X		
RIGHTTOUCH	RightTouch service is any system designed and developed to automate the customer interface by allowing eligible customers to initiate certain telephone service requests via a touch-tone phone. Scheduled for 1.5	BST			X	
RNS	Regional Negotiation System is a replacement for DOE/SONGS & BOCRIS for Customer Services contact personnel. RNS supports sales, ordering, billing, collections functions. In addition, RNS replaces bulky handbooks with on-line information.	BST			X	
ROS	Negotiation System used by Small Business and BBS.	BST			X	
RSAG	Regional Street Address Guide - Mechanized system which will become the corporate data layer source for address information. As the source for address information RSAG supports service negotiation and provisioning. Also, it will address the synchronization problems associated with independently updated, redundant copies of address data.	BST	X		X	
SNECS	Provides switch access for TAFI system.	BST		X		
SOAC	Service Order Analysis and Control - SOAC receives service orders from the service order processor. Parses the FIDs and USOCs, generates loop facility and central office assignment requests, send assigned order back to the SOP, and to other provisioning systems.	Telcordia	X			

NUMBER POOLING
SYSTEMS AND DESCRIPTIONS

SYSTEM	DESCRIPTION	VENDOR	PROVISIONING	M&R	ORDERING	BILLING
SOCS	Service Order Communications System - The primary function of SOCS is the real-time routing of formatted service orders via QMS/BOSIP to physical printers, PC's and mini-computers to support the provisioning and completion of service orders. SOCS is responsible for the collection, storage, and distribution of service orders to all user departments, including the service order driven mechanized systems. SOCS routes service orders to over 113 separate entities and feeds over 25 other mechanized systems that are needed to provide service to the customer and bill the customer. SOCS is also responsible for producing administrative reports.	BST			X	
SONGS	Service Order Negotiation Generation System - SONGS supports the CONSUMER, Small Business, Complex Business and Public COUs. Specific input screens with data and /or prompts are provided to aid negotiation and input of all order types. An interface through the On-Line RSAG Interface for Order Negotiation (ORION) verifies address information with data from Regional Street Address Guide (RSAG). The Central Office Features File Interface (COFFI) and Application for Telephone Number Load, Administration and Selection (ATLAS) provide other required data. Orders are generated from text contained in the CRIS database as well as from input data. Used in the five SCB Bell sites. SONGS has been partially been replaced by RNS for Consumer.	BST			X	
SWITCH	Replacement system for COSMOS.	Telcordia	X			
TAFI	Trouble Analysis Facilitation Interface - TAFI is a "rules based" system that guides the user through a series of questions and instructions to resolve a customer's problem. These questions and instructions trigger the gathering of relevant data from the customer and the appropriate Legacy system(s). TAFI processes the data and produces consistent recommendations to resolve the situation. TAFI can only determine the correct course of action based upon the information provided by the user and the Legacy system(s).	BST		X		
TAP	Testing Analysis Plan - Tests pending service orders and, based on test results, takes proactive action to correct problems. Not Impacted by TNP..	BST		X		
VNS	Vendor Negotiation System	BST			X	
WFA/C	The WFA-Control (WFA-C) is the work assignment and control administration part of the WFA product line. WFA-C manages and automates most of the work assignments required to install and repair Special, Carrier, Message, Non-Designed Circuits, and Business/Residential Lines (POTS LINES). WFA-C tracks activities of the entire circuit from Service Order to completion, from Trouble Report to closure and provides detailed Circuit Records and Circuit History. WFA-C is used by all the major centers and support organizations in BellSouth, ACAC, BRC, NISC, NPRC, CIA, INSAC, UNE, WMC, NRC, RTOC, DCSC, 911, SONET and etc.	Telcordia	X	X		

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re. Cost recovery and allocation issues
For number pooling trials in Florida
/

Docket No. 001503-TP
Filed: February 16, 2001

SPRINT'S POST WORKSHOP COMMENTS

During the December 12, 2000 workshop, staff requested that the parties in this docket file post workshop comments in this docket. Therefore, Sprint's comments are as follows:

It is Sprint's position that number pooling cost recovery should be national in scope. All service providers benefit when numbers are conserved and the exhaust of NPAs and even the North American Numbering Plan (NANP) is delayed.

The Number Pooling cost allocation should follow the LNP (Local Number Portability) process already implemented[1]. The pooling administrator cost should be a part of the costs being recovered. The cost allocation should be based on end user revenues and divided among all service providers nationwide

Sprint would like to see number pooling cost recovery rolled into a national mechanism from the beginning This would allow just one end user surcharge that would cover both the state and the national, rather than having two surcharges on the customers' bills.

All number pooling costs should be recovered through an end-user surcharge. The surcharge should be an explicit, fixed monthly charge that is assigned per line (with the exception of Lifeline customers) and that is recovered over a three-year period[2]. The surcharge should be service provider specific based on each carrier's individual costs. In order to have a single cost recovery mechanism at the national level, Sprint might be willing to postpone recovery depending on how long it takes the FCC to implement rules.

The amount of the surcharge should be determined via the same type methodology used to determine the LNP surcharge[2]. That is, the carrier specific nationwide charges should be calculated and then an allocation for Florida should be determined based on the number of end-users. The surcharge amount should be developed based on the FCC's LNP cost recovery model The surcharge should remain the same throughout the three-year recovery period. It is much less complicated to implement the surcharge as a fixed, three-year surcharge, furthermore, the FCC indicates that using the LNP based cost recovery method saves time for the regulator and the industry[3]. Sprint will not over recover because there will be ongoing costs associated with number pooling beyond the three year recovery period which will never be recovered via the surcharge

[1] FCC 00-429, Released December 29, 2000, Paragraph 179.
[2] Ibid.
[3] FCC 00-104, Released March 31, 2000, Paragraph 193.

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FPSC-RECORDS/REPORTING

Attachment 7

The major categories for cost recovery are identified in the PowerPoint slides provided as Attachment 1. Mr Hoke Knox explained these categories at the December 12, 2000 staff workshop in this docket

Sprint's estimated capital and expense costs associated with Number Pooling are provided in Attachment 2 under cover of confidentiality. Also included on that attachment is the estimated end user surcharge amount based on estimated number pooling specific costs recovered over a three-year period.

In closing, Commission Staff has asked how the cost recovery and allocation issues should be handled, i e., via a Proposed Agency Action (PAA), hearing process or workshop Sprint believes that the PAA process may be the most efficient, given that one workshop has already been held and written comments solicited from all the parties. However, if the written comments indicate major disagreements between the parties or between some parties and staff, then perhaps a follow-up workshop should be held.

Respectfully submitted this 16th day of February, 2001.

_____

Major Categories for Cost Recovery

- Operational Support Systems (OSS)
  - Telephone number inventory and assignment (CODARS)
    - » Modify systems from NXX to NXX-X
    - » Create 1K block utilization reports for state commissions
    - » Receipt and donation of 1K blocks from number pool administrator
    - » Identification of contaminated numbers in donated blocks
  - Customer Information Datastore (CIDS)
    - » Addition of pooling indicator to ensure that number pooled accounts are removed from the ported data and not returned in the snapback process during disconnect.
  - Customer Record and Billing (CRB)
    - » Modify CRB for accuracy of assignment numbers for number pooling block analysis.

Sprint.

ATTACHMENT 1

Major Categories for Cost Recovery

- Operational Support Systems (OSS) (con't)
  - Integrated Request Entry System (IRES)
    - » Telephone number assignment for CLEC customers
    - » Provide the ability to accurately manage the donatable and assignable inventory of numbers through a comprehensive number assignment process.
    - » Assign numbers from highly contaminated blocks first to allow sufficient blocks for pooling administrator.
  - Message Processing System (MPS)
    - » Collection and distribution of call detail records for billing.
    - » Modify system from NPA-NXX to NPA-NXX-X

Major Categories for Cost Recovery

- Operational Support Systems (OSS) (con't)
  - Service Order Entry (SOE)
    - » Telephone number validation for service order activity.
    - » Provide the ability to accurately manage the donatable and assignable inventory of numbers through a comprehensive number assignment process.
    - » Assign numbers from highly contaminated blocks first to allow sufficient blocks for pooling administrator.
    - » Modify system to ensure that number pooled accounts are removed from the ported data and not returned in the snapback process during disconnect.
    - » Automate the generation of orders for contaminated telephone numbers with 1K blocks for donation to the Pooling Administrator.

Major Categories for Cost Recovery

- Operational Support Systems (OSS) (con't)
  - Sprint Intelligent Computing Environment (SPICE)
    - » Telephone number validation for service order activity.
    - » Provide the ability to accurately manage the donatable and assignable inventory of numbers through a comprehensive number assignment process.
    - » Assign numbers from highly contaminated blocks first to allow sufficient blocks for pooling administrator.
    - » Modify system to ensure that number pooled accounts are removed from the ported data and not returned in the snapback process during disconnect.

Major Categories for Cost Recovery

- Operational Support Systems (OSS) (con't)
  - Service Provider Look UP (SPLU)
    - » Modify system to provide the ability to determine the service provider for a 1K block for Service Assurance.
  - Switch Audit Process (SWAP)
    - » Automate audit of telephone numbers in switch to billing and number inventory systems to ensure accuracy for donation of clean and contaminated blocks for the Pooling Administrator.

Major Categories for Cost Recovery

- Operations
  - Number inventory audit (manual process initially) for donation of clean and contaminated blocks for the Pooling Administrator.
  - Pooling Administrator report production.
  - Contaminated number porting.
  - Training.
  - Notification of end user charge.

Major Categories for Cost Recovery

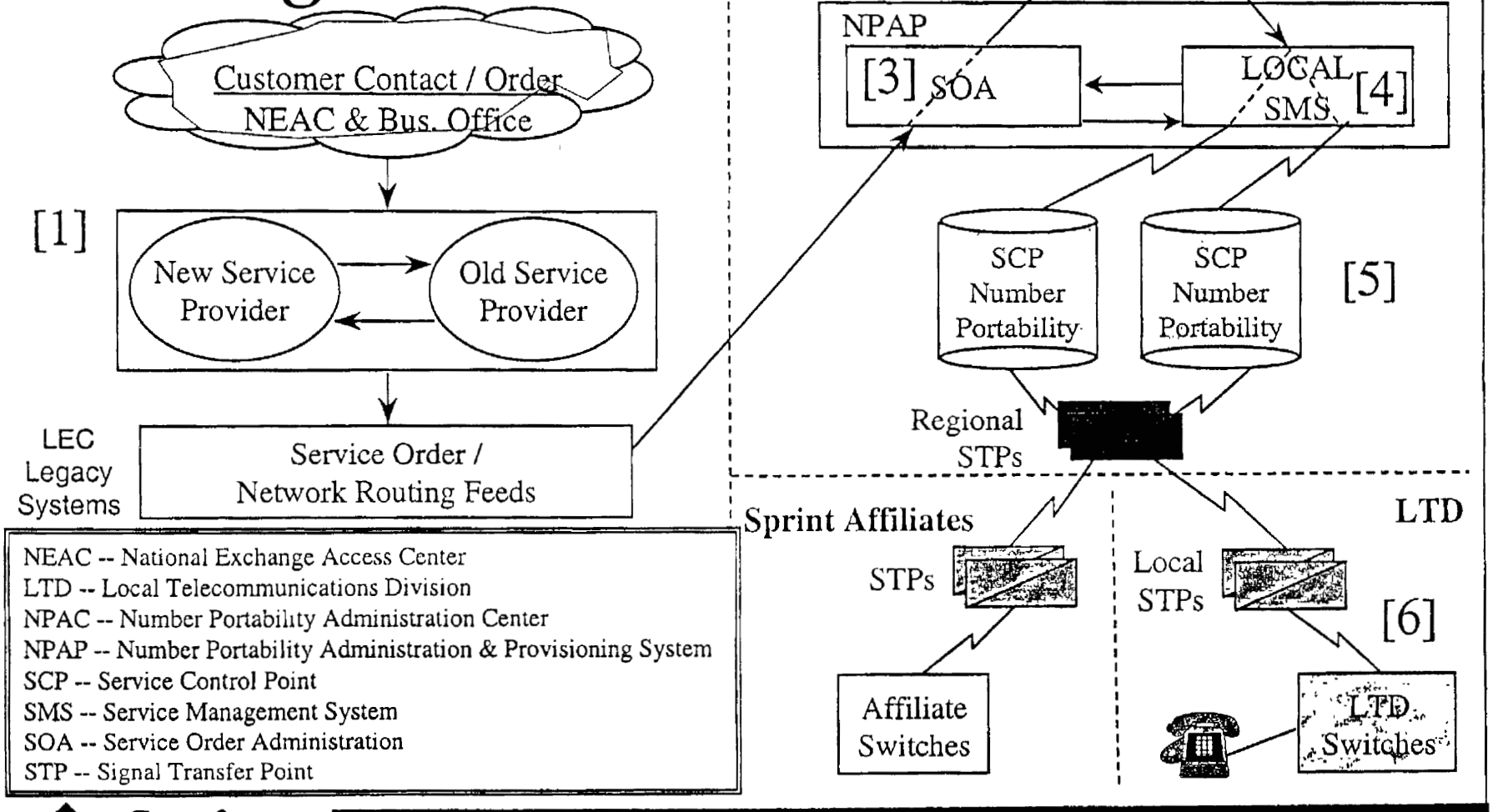
- Network
  - NPAC Statements of Work (SOW)
    - » SOW 4 NPAC Release 1.4 Number Pooling
    - » SOW 15 NPAC Release 3.0 Number Pooling
  - SS7 Components
    - » Additional SCP Hardware & Maintenance
    - » SCP Software to support number pooling.
      - SCP - Efficient Data Representation (EDR) upgrade.
    - » SCP Link additions for number pooling.
  - NPAP (Number Portability & Provisioning System)
    - » Local SMS upgrade to support number pooling with EDR
  - Upgrade existing switching systems for number pooling.

[redacted] *Number Pooling Surcharge*

- LTD Estimated Capital ([redacted]), Expense ($[redacted])
- End User Surcharge
  - Monthly, Explicit, Non-mandatory
  - Applied for 3 Years
  - Service Provider Specific Based on Its Own Cost
- Without Specific Rules (FCC Order)
  - Estimated End User Surcharge @ $[redacted] per month
    - » Using LNP Cost Recovery Model
    - » "But for Number Pooling" rule
    - » Calculation based on 3 year cost recovery period.

ATTACHMENT 2

LNP Network Diagram



NEAC -- National Exchange Access Center
LTD -- Local Telecommunications Division
NPAC -- Number Portability Administration Center
NPAP -- Number Portability Administration & Provisioning System
SCP -- Service Control Point
SMS -- Service Management System
SOA -- Service Order Administration
STP -- Signal Transfer Point

Sprint.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Petition for Declaratory Ruling and Request For Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717	)))))	CC Docket No. 96-98

SECOND REPORT AND ORDER, ORDER ON RECONSIDERATION IN CC DOCKET NO. 96-98 AND CC DOCKET NO. 99-200, AND SECOND FURTHER NOTICE OF PROPOSED RULEMAKING IN CC DOCKET NO. 99-200

Adopted: December 7, 2000 **Released: December 29, 2000**

Comment Date: February 12, 2001
Reply Comment Date: March 5, 2001

By the Commission:

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I. INTRODUCTION

1. In this Second Report and Order (*Second Report and Order*), Order on Reconsideration in CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking (*Second Further Notice*), we continue to develop, adopt and implement a number of strategies to ensure that the numbering resources of the North American Numbering Plan (NANP)[1] are used

[1] The NANP was established in the 1940s, when American Telephone and Telegraph (AT&T) realized that there was a need to ensure that the expansion of long distance calling would be guided by principles consistent with the ultimate incorporation of all public switched telephone networks into an integrated nation-wide network. (continued....)

efficiently, and that all carriers have the numbering resources they need to compete in the rapidly expanding telecommunications marketplace. Less than nine months ago, we adopted a number of administrative and technical measures designed to allow us to monitor more closely and increase the efficiency with which numbering resources within the NANP are used, and sought further comment on refinements to, and implementation of, those measures.[2] Primary among the measures we adopted was a roadmap for the assignment of numbers to carriers in blocks of 1,000 rather than 10,000, as has historically been the practice. At that time, we also made clear our intention to continue to examine other optimization measures not specifically addressed then, in furtherance of our national numbering resource optimization goals.

2. In undertaking to develop national numbering resource optimization strategies, we seek to fulfill our statutory mandate under section 251(e) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (1996 Act or Act), which grants this Commission plenary jurisdiction over the NANP.[3] In the *First Report and Order*, we concentrated our efforts on two of the major factors that contribute to numbering resource exhaust as identified in the Numbering Resource Optimization Notice of Proposed Rulemaking (*Notice*): the absence of regulatory, industry or economic control over requests for numbering resources, which failed to promote accountability or efficiency with which numbering resources were used and may even have led carriers to misuse the allocation system and build large inventories of numbers, and the allocation of numbers in blocks of 10,000, irrespective of the carrier's actual need for new numbers.[4] We continue to focus on these two factors, and, in

(Continued from previous page)
The NANP is the basic numbering scheme for the telecommunications networks located in Anguilla, Antigua, Bahamas, Barbados, British Virgin Islands, Canada, Cayman Islands, Dominica, Dominican Republic, Grenada, Jamaica, Montserrat, St. Kitts & Nevis, St. Lucia, St. Vincent, Turks & Caicos Islands, Trinidad & Tobago, and the United States (including Puerto Rico, the U.S. Virgin Islands, Guam and the Commonwealth of the Northern Mariana Islands). Under the plan, the United States and Canada originally were divided into eighty-three "zones," each of them identified by three digits. Within each zone, a central office was represented by another three-digit code. The zones are now referred to as Numbering Plan Areas (NPAs), and the 3 digits representing those areas are referred to either as Numbering Plan Area codes or area codes. The three digits representing central offices are called central office codes or NXXs. The central office code is used for routing calls and for rating and billing calls. Typically, wireline carriers obtain a central office code for each rate center in which they provide service in a given area code. All public network facilities and private network facilities (such as private branch exchange systems) are designed and programmed to be consistent with the NANP scheme.

[2] *See Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (rel. Mar. 31, 2000) (*First Report and Order*).

[3] Pub. L. No. 104-104, 110 Stat. 56 (1996 Act). The 1996 Act amended the Communications Act of 1934, 47 U.S.C. §§ 151-174. 47 U.S.C. § 251(e)(1) provides:

> 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.

[4] *See Numbering Resource Optimization*, Notice of Proposed Rulemaking, 14 FCC Rcd 10322, 10328-29, para. 15 (rel. June 2, 1999) (*Notice*); *First Report and Order*, 15 FCC Rcd at 7578, para. 4. The other two factors we identified in the *Notice* were: (1) multiple rate centers, and the demand by most carriers to have at least one (continued....)

addition, examine several other measures raised in the *Notice* but not addressed in the *First Report and Order*.

3. In the *Pennsylvania Numbering Order*,[5] the Commission established guidelines for state commissions to follow in selecting area code relief options and, among other things, encouraged states to seek further delegated authority to implement number conservation plans. In this Order on Reconsideration in CC Docket No. 96-98, we address issues relating to the Commission's delegation of authority to state public utility commissions (state commissions or states) to undertake certain aspects of area code relief and to implement numbering resource optimization measures. We decline to amend the existing rules or implement additional rules for area code relief at this time. Rather, we find that the area code relief measures already in place are in accord with the numbering resource optimization measures under consideration in this proceeding.

II. BACKGROUND AND OVERVIEW

4. In the Communications Act of 1934, as amended by the 1996 Act, Congress gave the Commission plenary jurisdiction over the NANP within the United States.[6] In discharging our authority over numbering resources, we seek to balance two competing goals. We must ensure that carriers have the numbering resources that they need to compete and bring new and innovative services to the consumer marketplace. At the same time, we must ensure that, to the extent possible, numbering resources are used efficiently. Inefficient use of numbering resources speeds the exhaust of area codes, imposing on carriers and consumers alike the burdens and costs of implementing new area codes. It also shortens the life of the NANP as a whole. In the *First Report and Order*, we described the alarming rate at which existing area codes were entering states of jeopardy and new area codes were being activated throughout North America.[7] Recent reports by the North American Numbering Plan Administrator (NANPA) indicate that at least 37 additional area codes are scheduled for implementation by the end of 2001.[8]

5. Although it remains difficult to predict NANP exhaust with absolute precision, we

(Continued from previous page)
NXX code per rate center; and (2) the increased demand for numbering resources by new entrants and new technologies. *Notice*, 14 FCC Rcd at 10328-29, para. 15.

[5] *See Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717*, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009, 19025, para. 23 (rel. Sept. 28, 1998) (*Pennsylvania Numbering Order*).

[6] 47 U.S.C. § 251(e)(1).

[7] *First Report and Order*, 15 FCC Rcd at 7577-78, para. 2.

[8] *See* NANPA, NPA Relief Activites, Planned NPAs Not Yet in Service, *available at* <www.nanpa.com/area_codes/npa_planned.html.> Compared to the activation of only 9 new area codes in the ten-year period between 1984-1994, in 1996 alone, 11 new area codes were activated within the NANP. In 1997, 32 new area codes were activated, and 46 new area codes were activated during 1998-1999. *See* North American Numbering Plan Exhaust Study, submitted to the NANC by the NANPA, Lockheed Martin CIS, April 22, 1999, at 6 (Number Utilization Study). In 2000, 13 area codes have been activated.

know that exhaust could have occurred within ten years unless we took measures to increase the efficiency with which numbering resources are being used. As noted in the *First Report and Order*, the measures first examined were chosen because they could be implemented quickly and would produce immediate and measurable results.[9] We recognize that it may be too soon to measure comprehensively the effectiveness of the measures we implemented last March in furtherance of numbering resource optimization. Nevertheless, we are confident that those steps, and the ones we implement in this order, will help us to achieve our goal of extending the life of the current NANP.[10]

6. *Optimization Measures Already Implemented.* The measures adopted in the *First Report and Order* marked a significant change in NANP administration. Most notably, all carriers in the United States that use NANP numbering resources now must closely monitor, track, and report on their number usage based on uniform definitions established by the Commission. Additionally, carriers must now demonstrate their need for additional numbering resources with more than their subjective forecasts. Carriers that fail to do so will be denied numbering resources. Other measures designed to increase discipline in numbering resource utilization practices include mandatory reclamation of unused numbering resources and a requirement that numbers be assigned by carriers to end-users sequentially to preserve the availability of unused blocks of numbering resources for other carriers.

7. Among the measures adopted that appear to be the most promising is thousands-block number pooling.[11] Thousands-block number pooling is a system for allocating numbers in blocks of 1,000 rather than 10,000. It has been estimated that the nationwide implementation of thousands-block number pooling and other numbering optimization measures could potentially extend the life of the NANP by as many as 25 years.[12] Substantial benefit can be realized by thousands-block number pooling because it enables carriers to take fewer than 10,000 numbers at a time, which in turn leaves fewer numbers stranded and thus unavailable to be used by other carriers. By setting forth a framework for implementing thousands-block number pooling, we hope to remedy the inefficient allocation and use of numbering resources at the national level.

8. *State Commission Involvement.* A major component of our overall numbering

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[9] *First Report and Order*, 15 FCC Rcd at 7578, para. 4.

[10] NANP expansion will not only be very costly, but will change the local and long distance dialing patterns by increasing the number of digits that must be dialed to place calls.

[11] Thousands-block number pooling allows service providers in a given area to receive numbers in blocks of 1,000 by breaking the association between the NPA-NXX and the service provider to whom the call is routed. All 10,000 numbers available in the NXX code are allocated within one rate center, but can be allocated to multiple service providers in thousand number blocks, instead of only to one particular service provider. For example, if the 202-418 NPA/NXX were pooled, up to ten service providers could serve customers from it. One service provider could be allocated every line number from 202-418-0000 through 202-418-0999. Another service provider could be allocated every line number in the range 202-418-1000 through 202-418-1999.

[12] NANPA Report to the NANC, September 19-20, 2000, at 7. We recognize that this is a conservative estimate, because information on the full impact of thousands-block number pooling and other number optimization measures was not available at the time this report was prepared. Consequently, certain assumptions were made that may not fully reflect the effectiveness of these number optimization measures.

resource optimization strategy involves our commitment to continue developing and maintaining a partnership with the state commissions. We have enlisted states to assist us in numbering resource optimization efforts by delegating significant authority to them to implement certain measures. In addition to the authority to implement area code relief, we have responded to the requests of 25 state commissions by conditionally granting them authority to implement the following measures: thousands-block number pooling trials; rationing for six months following implementation of area code relief; hearing and addressing claims of carriers seeking numbering resources outside of the rationing process; and auditing carriers' use of numbering resources. The grants of authority to the state commissions, however, were not intended to allow the states to engage in number conservation measures to the exclusion of, or as a substitute for, unavoidable and timely area code relief.[13] Although we did not mandate rate center consolidation in the *First Report and Order*, we also believe that rate center consolidation is an attractive numbering resource optimization measure because it enables carriers to use fewer NXX codes and thousands blocks to provide service throughout a region, thereby reducing the demand for NXX codes and thousands blocks, improving number utilization, and prolonging the life of an area code. We strongly encourage the state commissions to proceed as expeditiously as possible to consolidate rate centers.

9. *Additional Activities.* In the interim period since the release of the *First Report and Order*, we have continued to implement measures in furtherance of our numbering resource optimization goals. On July 15, 2000, the Common Carrier Bureau (Bureau) released a Public Notice in response to several questions the Bureau had received relating to the *First Report and Order*.[14] On July 20, 2000, the Bureau released an order delegating to 15 states the authority to implement number conservation measures.[15] In response to numerous requests from parties, on July 31, 2000, we released an order staying the mandatory utilization and forecast reporting requirements until September 15, 2000, and extending the deadline for compliance with the 45-day reservation limit until December 1, 2000.[16] In addition, on August 30, 2000, the Bureau released a Public Notice seeking comment on the California Public Utilities Commission and the People of the State of California (California Commission) and the Maine Public Utilities Commission (Maine Commission) petitions for waiver of the requirement that state commissions conform their thousands-block number pooling trials to the national pooling rules set forth in the *First Report and Order* by September 1, 2000.[17] We also released an order on August 31, 2000,

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[13] *Pennsylvania Numbering Order*, 13 FCC Rcd at 19027, para. 26; *see also First Report and Order*, 15 FCC Rcd at 7581, para. 7.

[14] *Common Carrier Bureau Responses to Questions in the Numbering Resource Optimization Proceeding*, Public Notice, CC Docket 99-200, DA 00-1549 (rel. July 11, 2000).

[15] *Numbering Resource Optimization*, Order, CC Docket No. 96-98, 99-200, DA 00-1616 (rel. July 20, 2000) (addressing petitions for additional delegated authority to implement numbering resource optimization strategies filed by the following state commissions: Arizona, Colorado, Georgia, Indiana, Iowa, Kentucky, Missouri, Nebraska, North Carolina, Oregon, Pennsylvania, Tennessee, Utah, Virginia, and Washington).

[16] *Numbering Resource Optimization*, Order, CC Docket No. 99-200, FCC 00-280 (rel. July 31, 2000).

[17] *Common Carrier Bureau Seeks Comment on the California Public Utilities Commission and Maine Public Utilities Commission Petitions for Waiver of the Requirement to Conform Their Thousands-Block Number Pooling* (continued....)

staying the compliance of the national pooling rules for California and Maine until we rule on the merits of the petitions or December 31, 2000, whichever date is sooner.[18]

10. *Overview.* We sought comment on several matters relating to our findings in the *First Report and Order* in an accompanying Further Notice of Proposed Rulemaking (*Further Notice*). In the *Further Notice*, we sought comment on the level at which the utilization threshold for non-pooling carriers should be established. In this *Second Report and Order*, we establish a utilization threshold of 60% that carriers must meet before receiving additional numbering resources in a given rate center; this threshold will increase by 5% per year to a maximum of 75%. We also reconsider our decision not to apply a utilization threshold to pooling carriers. We conclude that application of a utilization threshold to pooling carriers will further our numbering resource optimization goals, and therefore establish a utilization threshold of 60%, to increase by 5% per year to a maximum of 75% for pooling carriers as well. Those states already using a utilization threshold that exceeds our established utilization threshold may continue to use their higher threshold (up to 75%) only where it is currently in use until it no longer exceeds the mandated threshold, at which time they must conform to the federally mandated threshold.

11. Furthermore, we address our national framework for thousands-block number pooling administration, and conclude that the term of the Pooling Administrator will be five years rather than coterminous with the current NANPA term. We also rule on the merits of petitions for waiver filed by the California Commission and the Maine Commission, and conclude that California and Maine, as well as other state commissions conducting thousands-block number pooling trials, may continue to use their utilization thresholds subject to parameters set forth in this order.

12. In the *Further Notice*, we also sought comment on whether covered CMRS carriers should be required to participate in pooling upon expiration of the local number portability (LNP) forbearance period on November 24, 2002.[19] Based on the record before us, we decline to adopt a transition period between the time that covered CMRS carriers must implement LNP and the time they must participate in any mandatory number pooling.

13. We also address several issues proposed in the *Notice* concerning area code relief. Specifically, we consider whether we should amend the existing federal rules or develop additional federal guidelines for area code relief. At the present time, we decline to amend the existing federal rules for area code relief or specify any new federal guidelines for the implementation of area code relief. We recognize the integral role state commissions play in our numbering resource optimization policies and continue to rely on them to implement timely area code relief. We also address the advantages and disadvantages of geographic splits and all-services overlays, and the approaches most commonly used by states to implement area code relief. We decline to state a preference for either all-services overlays or geographic splits as a

(Continued from previous page)
Trials to the National Thousands-Block Number Pooling Rules by September 1, 2000, Public Notice, CC Docket No. 99-200, DA 00-1995 (rel. Aug. 30, 2000).

[18] *Numbering Resource Optimization*, Order, CC Docket No. 99-200, FCC 00-333 (rel. Aug. 31, 2000).

[19] *First Report and Order*, 15 FCC Rcd at 7686, para. 249.

method of area code relief. Moreover, we encourage state commissions to consider the use of reverse overlays and expanded overlays, as well as boundary realignments, as a means of allocating new numbering resources to areas facing exhaust.

14. We also set forth a comprehensive audit program to verify carrier compliance with federal rules and orders and industry guidelines. We conclude that our comprehensive audit program will consist of "for cause" and random audits performed by an auditor designated by the Bureau.[20] Moreover, we direct the auditor to provide a comprehensive audit plan, including a proposal for specific enforcement measures against those carriers that are found to have violated our numbering guidelines and rules. We also conclude that the costs of designated agents involved in conducting audits will be allocated and recovered through the NANP administration fund administered by the North American Billing and Collection Agent (NBANC).

15. Regarding nationwide mandatory ten-digit dialing, we decline to adopt this measure at the present time. Furthermore, because implementation issues remain unresolved, we decline to adopt nationwide expansion of the "D digit" (the "N" of an NXX or central office code) to include the digits 0 or 1, or to grant state commissions the authority to expand the D digit as a numbering resource optimization measure at the present time.

16. In this *Second Report and Order*, we also clarify certain aspects of the administrative measures adopted in the *First Report and Order*. First, we address certain elements of our new requirements for monitoring carrier number usage, including the definition of Parent Operating Company Number (OCN), and addressing how numbers used for intermittent and cyclical purposes should be categorized under the uniform definitions established in the *First Report and Order*. We also address issues raised in several petitions for reconsideration of the 45-day period for reserved numbers. Next, we clarify the scope of access that state commissions have been granted to mandatorily reported data and numbering resource application information.

17. We also seek comment on several matters relating to our findings in the *Numbering Resource Optimization* proceeding in the attached *Second Further Notice*. The issues addressed include: our current prohibition on service-specific and technology-specific overlays, and whether we should modify the prohibition and permit states to implement service-specific and technology-specific overlays subject to certain conditions; the rate center problem, particularly what policies could be implemented at the federal level to reduce the extent to which the rate center system contributes to and/or accelerates numbering resource exhaust; and a proposal for a market-based approach for optimizing the use of numbering resources.

III. UTILIZATION THRESHOLD

18. *Background.* In the *First Report and Order*, we concluded that carriers not participating in thousands-block number pooling would be required to show that they had used a certain percentage of their existing inventory of numbers before receiving additional resources in a given rate center.[21] We also concluded that pooling carriers should not have to meet such a

[20] We intend to use auditors in the Audits Branch of the Accounting Safeguards Division in the Bureau or other designated Commission agents.

[21] *First Report and Order*, 15 FCC Rcd at 7616-17, para. 103.

utilization threshold to receive additional numbering resources in a rate center.[22] In the *Further Notice*, we sought comment on several issues related to establishing a utilization threshold for non-pooling carriers.[23] Although we determined that non-pooling carriers should be required to meet a utilization threshold, we had no basis on which to establish a specific utilization threshold because the parties provided very little empirical data. In response to the *Notice*, parties had suggested utilization thresholds within the 60%-90% range. The utilization thresholds proposed by the parties, however, apparently were based on a calculation that included categories of numbers in addition to *assigned numbers* in the numerator (such as *administrative*, *aging*, and *reserved* numbers). We recognized that these differences in calculating utilization would result in different utilization levels and, therefore, tentatively concluded that a nationwide utilization threshold for growth numbering resources should be set initially at 50%, and increased by 10% annually until it reaches a maximum of 80%.

19. Additionally, we tentatively concluded that a carrier should be required to meet a rate center-based utilization threshold for the rate center in which it is seeking additional numbering resources. We sought comment on whether the rate center-based utilization should be used in combination with NPA-based utilization thresholds. Finally, we sought comment on whether state commissions should be allowed to set the rate-center based utilization threshold within a range and based on criteria that we establish.

20. In the *First Report and Order*, we recognized that some states were in the process of conducting utilization studies, and we hoped to examine those studies to learn what actual utilization levels carriers are now achieving. Several state commissions have since adopted utilization thresholds pursuant to delegated authority.[24] Connecticut, Florida, Massachusetts, New York, and Ohio, for example, have applied utilization thresholds to carriers that do not participate in thousands-block number pooling. California, New Hampshire, and Maine have applied utilization thresholds to both pooling and non-pooling carriers.[25]

A. Initial Utilization Threshold

21. *Discussion.* We agree with those commenting parties that suggest that allowing carriers that have used only one-half of their existing inventories to receive additional numbering resources does not reasonably encourage meaningful number optimization.[26] The record suggests that carriers are able to achieve utilization levels above 50% before needing more numbering

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22 *Id.*

23 *Id.* at 7685-86, para. 248.

24 *See* Letter from Trina M. Bragdon, Maine Commission, to Magalie Roman Salas, FCC, dated October 25, 2000.

25 California, Florida, and Maine have filed petitions for reconsideration of our decision to exclude pooling carriers from the utilization requirement. California Petition for Reconsideration at 3; Florida Commission Petition for Reconsideration at 7; Maine Commission Petition for Reconsideration at 3-5. They argue that the utilization threshold we adopt here should be applied to pooling carriers as well.

26 California Commission Comments at 4; Maine Commission Comments at 2; Missouri Commission Comments at 3.

resources.[27] Moreover, parties that support a 50% utilization threshold have provided no credible basis for adopting this level.[28] Although setting the utilization threshold is not an exact science, we agree with those commenters who state that allowing carriers to assign only one-half of the numbers in their inventory before asking for more numbers undermines our efforts to optimize the use of existing numbering resources. In other words, we believe that carriers with lower utilization levels do not need additional numbering resources. Rather, they can serve customers from their current inventory. Commenters have presented no persuasive evidence to contradict this reasoning; they offer no evidence that they (especially those with lower utilization rates) are technically or otherwise precluded from using more of their existing inventory before requesting more numbering resources. We also believe that a 50% utilization threshold provides no incentive for carriers to use numbers more efficiently, and that such a low initial utilization threshold may cause us to lose some of the momentum gained from the strategies adopted in the *First Report and Order*.[29]

22. Instead, we adopt a 60% initial utilization threshold. We find that 60% is an appropriate initial utilization level for several reasons. First, sound numbering resource optimization policies should encourage carriers to use as many numbers as possible from their existing inventory before obtaining additional numbers from the NANPA or the Pooling Administrator. Also, state commission studies and our preliminary assessment of data carriers reported to the NANPA indicate that the average industry utilization levels range from approximately 45%-65%.[30] The data reported to the NANPA suggests that the average industry-wide utilization is approximately 50%.[31] Thus, it appears that an initial threshold of 60% is high enough to encourage carriers to use numbers from their existing inventory before seeking more

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[27] California Commission Comments at 4; Consumer Commenters Comments at 13; Florida Commission Comments at 8-11; Maine Commission Comments at 3; Missouri Commission Comments at 3; New Hampshire Commission Comments at 6; New York Commission Comments at 1; *see also* Letter from Trina M. Bragdon, Maine Commission, to Magalie Roman Salas, FCC, dated October 25, 2000.

[28] GTE Comments at 7; SBC Comments at 11; Sprint Comments at 7. Although we recognize that Bell Atlantic and GTE are now operating as "Verizon Communications," we nonetheless refer to Bell Atlantic and GTE, where appropriate, rather than Verizon because the bulk of those parties' filings in this docket were made prior to the completion of the merger. *See Application of GTE Transferor, and Bell Atlantic Corporation Transferee, For Consent to Transfer Control of Domestic and International Sections of 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License,* CC Docket No. 98-184, Memorandum Opinion and Order, FCC 00-221 (rel. June 16, 2000).

[29] *See* New Hampshire Commission Comments at 3.

[30] *See* California Commission Comments at 4; Florida Commission Comments at 8-11; Maine Commission Comments at 3; Missouri Commission Comments at 3; New Hampshire Commission Comments at 6; New York Commission Comments at 1; Consumer Commenters Comments at 13; *see also Numbering Resource Utilization in the United States*, Report by Industry Analysis Division, Common Carrier Bureau, FCC at Table 1 (rel. Dec. 2000) (*Numbering Utilization Report*). This report may be downloaded (filename: UtilizationJun2000.ZIP or UtilizationJun2000.PDF) from the FCC-State Link Internet site at <http://www.fcc.gov/ccb/stats>. *See also* Letter from Trina M. Bragdon, Maine Commission, to Magalie Roman Salas, FCC, dated October 25, 2000.

[31] *Numbering Utilization Report* at Figures 2, 4, 6 & 8. The data shows that where carriers have 10 or more NXXs in a rate center, LECs report over 65% utilization, CLECs report approximately 20% utilization, paging carriers report nearly 50% utilization, and wireless carriers report over 55% utilization.

resources, yet low enough to be achievable by carriers that truly need additional resources. In addition, states have used utilization thresholds in this range with success.[32] Furthermore, this initial threshold level, because it is demonstrably achievable,[33] will give carriers an opportunity to make an orderly transition to the higher thresholds we adopt below without compromising their ability to obtain numbering resources to serve customers in the short term.

23. The industry commenters differ from the public interest commenters[34] as to what role, if any, state commissions should play with respect to establishing utilization thresholds. The industry commenters argue that state commissions should not be allowed to deviate from the utilization threshold that we establish.[35] The public interest commenters contend that state commissions should be allowed to set specific utilization thresholds within a range established by us.[36] We agree with those commenters that argue disparate utilization thresholds may be more difficult to administer and may increase the difficulty of monitoring compliance.[37] We therefore decline to delegate additional authority to state commissions to set different utilization thresholds, with one exception. State commissions that are currently using a utilization threshold pursuant to delegated authority that exceeds 60% may continue to use their utilization threshold in those areas as long as it does not exceed the Commission's established ceiling of 75%.[38] States exercising this authority must ensure that utilization is being calculated in the manner established in the *First Report and Order*; that is, only *assigned numbers* are included in the numerator. This limited exception allows states to continue their forward progress already achieving success with higher utilization thresholds. The utilization thresholds that we adopt herein shall otherwise be applied on a uniform nationwide basis.

24. We also find it appropriate to allow a brief transition period for carriers to make appropriate adjustments to the way in which they manage their numbering resource inventories. We conclude, therefore, that all carriers shall have until three months after the effective date of this *Second Report and Order* to meet the initial utilization threshold before applications for

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[32] Before the *First Report and Order* was released, California allowed carriers to calculate utilization by dividing *assigned*, *aging*, *administrative*, and *reserved* numbers by the total numbers assigned to the carrier. Other states adopted utilization thresholds after the *First Report and Order* was released and require carriers to calculate utilization as we prescribed in the *First Report and Order*. We have not received complaints that carriers are not able to meet these thresholds when they need additional numbering resources.

[33] Specifically, California, Connecticut, Florida, Maine, Massachusetts, New Hampshire, and New York have required carriers to meet a 75% utilization threshold. Ohio requires carriers to meet a 65% utilization threshold.

[34] These commenters consist of state commissions, state attorneys general, and state consumer advocates.

[35] AT&T Comments at 7; Nextlink Comments at 7, 10; SBC Comments at 12; Verizon Comments at 13; VoiceStream Comments at 12; WinStar Comments at 10.

[36] California Commission Comments at 2-3; Consumer Commenters Comments at 14-15; Missouri Commission Comments at 5.

[37] AT&T Comments at 7.

[38] *See infra* para. 25.

growth numbering resources will be denied because of failure to meet the threshold.[39] In the interim, however, carriers shall continue to be required to meet the months-to-exhaust (MTE) requirement before receiving growth resources.

B. Adjustments to the Utilization Threshold

25. *Discussion.* In the *Further Notice*, we tentatively concluded that the initial utilization threshold should be increased annually by 10% to a maximum of 80%.[40] We are persuaded that an annual increase in the utilization threshold is appropriate, but conclude that the utilization threshold should be increased by 5% annually instead of 10%, until it reaches 75% rather than 80%. We gradually increase the utilization level by 5% because we seek to give carriers sufficient time to increase the efficiency with which they use numbering resources above current levels and to use numbers currently in their inventories before they obtain more resources. We remain concerned that many carriers may be doing little if anything to groom their numbering inventories to minimize waste of these important resources; this mandate should make all carriers take significant and measurable steps to improve their utilization. Moreover, we strongly believe that as carriers become accustomed to the numbering resources optimization measures we have adopted, the efficiency with which they use numbering resources will increase.

26. The initial utilization threshold of 60% shall be effective three months after publication of this *Second Report and Order* in the Federal Register. The utilization threshold shall be increased by 5% on June 30, 2002, and annually thereafter until the utilization threshold reaches 75%.[41] The 75% threshold is a reasonable compromise between the 60% ceiling recommended by some industry commenters[42] and the 80% ceiling recommended by other commenters,[43] particularly since carriers are successfully meeting 75% utilization thresholds established by some state commissions.[44] In fact, some carriers are able to reach utilization levels as high as 80% before they need additional numbering resources.[45] This threshold balances our goal of encouraging the efficient use of numbering resources with carriers' need to retain some flexibility in managing their inventories. In the future and as the market matures, however, carriers may be able to achieve greater efficiencies in their use of numbering resources and, therefore, a higher utilization threshold may be appropriate. We urge carriers to develop strategies and procedures to increase their utilization levels beyond the required thresholds in

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39 *See* 47 C.F.R. 1.103.

40 *First Report and Order*, 15 FCC Rcd at 7685, para. 248

41 The initial increase from 60% to 65% will occur on June 30, 2002. The increase to 75% will occur on June 30, 2004.

42 AT&T Comments at 2, 7.

43 California Commission Comments at 2; New Hampshire Commission Comments at 5; Nextlink Comments at 4; Texas Commission Comments at 2.

44 California Commission Comments at 4; Maine Commission Comments at 1-2; Missouri Commission Comments at 3-4; New Hampshire Commission Comments at 6.

45 *See Numbering Resource Utilization Report, supra* note 30.

furtherance of our numbering resource optimization goals, and in anticipation of any future adjustments.

C. Applicability of Utilization Threshold to Pooling Carriers

27. *Discussion.* Petitioners and commenters sought reconsideration of our decision to exempt pooling carriers from the requirement to meet a utilization threshold to obtain growth numbering resources.[46] They argue that both non-pooling and pooling carriers should be required to satisfy the utilization threshold in addition to the MTE requirement. California asserts that the utilization threshold it established for carriers participating in its pooling trials has increased numbering efficiency in its pooling trials.[47]

28. We are encouraged by the results achieved in pooling trials using a utilization threshold, and are persuaded that our national numbering resource optimization goals can be met more quickly and efficiently if we require all carriers, including pooling carriers, to meet a utilization threshold to obtain growth numbering resources.[48] We agree with Maine that applying the utilization threshold to pooling carriers helps ensure that only those thousands blocks that are needed are assigned.[49] Thus, the rationale we applied in establishing a utilization threshold for non-pooling carriers, we believe, applies equally in a pooling environment. Further, utilization rates provide an objective, uniform means of determining when carriers are in need of additional numbering resources. We therefore conclude that pooling carriers, also, shall be subject to meeting the utilization thresholds established herein to obtain growth numbering resources.

D. Application of Utilization Threshold for Growth Resources

29. *Discussion.* Several petitioners and commenters disagreed with our decision to require carriers to meet a utilization threshold in addition to MTE criteria to receive growth numbering resources,[50] generally asserting that the MTE calculation is sufficient to determine carriers' need for numbering resources.[51] Nextel opposes utilization thresholds for growth

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[46] California Commission Petition for Reconsideration at 3; Florida Commission Petition for Reconsideration at 7; Maine Commission Petition for Reconsideration at 3-5; Oregon Commission Comments at 4; Texas Commission Comments at 2.

[47] California Public Utilities Commission and the People of the State of California Petition for Waiver at 2-7 (filed Aug. 4, 2000) (California Petition).

[48] *See First Report and Order,* 15 FCC Rcd at 7636, para. 142 ("[W]e may revist the issue of whether to improve utilization threshold requirements on pooling carriers in the future if we find that such thresholds significantly increase number use efficiency.")

[49] Petition of the Maine Public Utilities Commission for Waiver to Continue State Pooling Trials until National Pooling is Implemented at 3 (filed Aug. 14, 2000) (Maine Petition).

[50] ALTS Petition for Reconsideration and Clarification at 7; BellSouth Petition for Reconsideration at 15; PCIA Petition for Clarification and Reconsideration at 3; Sprint Petition for Reconsideration and Clarification at 5; VoiceStream Petition for Reconsideration at 9-10; CompTel Comments at 3; Nextel Comments at 3; USTA Comments 2; Verizon Comments at 2.

[51] Nextel Comments at 3; VoiceStream Comments at 10

numbering resources and asserts that an MTE calculation more accurately reflects a carrier's numbering resource demands.[52] As we stated in the *First Report and Order*, using MTE as the sole criterion for evaluating need for numbering resources is inadequate, primarily because much of the MTE data cannot be verified until after the carrier has already obtained the numbering resources. Also, the MTE forecast is highly subjective and dependent on good faith projections by each carrier. Moreover, there is no retrospective accountability for carriers' forecasts.[53] In contrast, the utilization threshold provides a more objective measure of carriers' need for numbering resources. We, thus, affirm our conclusion that carriers must meet both the MTE and the utilization threshold requirements to receive growth numbering resources.

E. Calculation of Utilization Level

30. *Discussion.* Some carriers have asked us to reconsider the manner in which we calculate the utilization levels.[54] We determined in the *First Report and Order* that utilization for a given geographic area (rate center or NPA) must be calculated by dividing all *assigned numbers* by the total numbering resources assigned to the carrier in that geographic area and multiplying the result by 100.[55] Some commenting parties suggest that the utilization calculation should include *administrative*, *aging*, *intermediate*, and *reserved numbers* in the numerator, or that the utilization threshold should otherwise be reduced because carriers have very little or no control over numbering resources in these categories.[56] These arguments are unpersuasive. As we stated in the *First Report and Order*, basing the utilization calculation on *assigned numbers* provides a more accurate representation of the percentage of numbers being used to serve customers, which we believe is the proper analysis for furthering our numbering optimization goals.[57] Moreover, the utilization thresholds that we adopt herein take into consideration that only *assigned numbers* are used in the numerator to calculate utilization.[58] In establishing them, we have considered available data on carrier utilization and experience with utilization thresholds in several states. Therefore, there is no need to alter the definition of utilization or to include *administrative*, *aging*, *intermediate* or *reserved numbers* in the numerator.

F. Geographic Application of Utilization Threshold

31. *Discussion.* In the *First Report and Order*, we determined that the utilization

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52 Nextel Comments at 3.

53 *First Report and Order*, 15 FCC Rcd at 7617, para. 104

54 ALTS Petition for Reconsideration and Clarification at 5; AT&T Petition for Reconsideration at 4; BellSouth Petition for Reconsideration at 11; SBC Petition for Reconsideration and Clarification at 7; Verizon Petition for Suspension of Enforcement Date and Reconsideration at 5.

55 *First Report and Order*, 15 FCC Rcd at 7619, para. 109.

56 BellSouth Comments at 9-10; Sprint Comments at 5; Time Warner Comments at 5.

57 *First Report and Order*, 15 FCC Rcd at 7618, para. 107.

58 That is, we believe that carriers would be able to meet a higher utilization threshold before needing additional numbering resources if they could include numbers other than *assigned* in the numerator. .

threshold should be calculated and applied per rate center because numbering resources are assigned per rate center.[59] Most commenters agree with this conclusion,[60] and very few commenters support an NPA-wide utilization requirement.

32. Some ILECs suggest, however, that the utilization threshold should be calculated on a per-switch basis in rate centers that have multiple switches, particularly where they have not deployed LNP capability.[61] According to BellSouth, in the absence of thousands-block number pooling, numbers cannot be shared easily among multiple switches in the same rate center.[62] They assert that there are technical constraints on their ability to share numbering resources among multiple switches within the same rate center and that a low utilization rate in one or more switches could prevent it from meeting the rate center utilization threshold.[63] SBC argues in its comments that the utilization threshold should be calculated at the "lowest code assignment point" – the rate center, where there is only one switch, or the switch, where there is more than one in a rate center.[64]

33. We are not persuaded at this time that we should adopt a switch-based utilization or "lowest code assignment point" utilization as suggested by SBC.[65] We are concerned that allowing carriers to receive additional numbering resources when they have not reached the overall rate center utilization threshold will increase the likelihood that numbering resources will become stranded in underutilized switches. We also believe that switch-based utilization undermines our policy of encouraging rate center consolidation, which allows numbering resources to be used over a wider geographic area. Switch-based utilization calculation would represent, in essence, rate center de-consolidation. We urge carriers to pursue intra-rate center and intra-company porting of numbers and other strategies to share numbers among switches, both to minimize stranded numbers and to alleviate the need to get additional numbering resources without meeting the established utilization threshold in each rate center. Because a number of parties have indicated that they are unable to port numbers between switches until they

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[59] *First Report and Order*, 15 FCC Rcd at 7617, para. 105 (stating that the rate center-based utilization "more accurately reflects how numbering resources are assigned").

[60] ALTS Comments at 6; CompTel Comments at 5; Consumer Commenters Comments at 11-12; Nextel Comments at 3; Nextlink Comments at 5; PCIA Comments at 6-7; Sprint Comments at 8; Time Warner Comments at 6; USTA Comments at 4; Verizon Comments 2-3; WorldCom Comments at 3; AT&T Reply Comments at 15.

[61] Bell Atlantic Comments at 8; SBC Comments at 7; *see also* BellSouth Petition for Reconsideration at 20; Letter from Kathleen B. Levitz, BellSouth, to Magalie Roman Salas, FCC, dated October 19, 2000.

[62] BellSouth Petition for Reconsideration at 20.

[63] BellSouth Petition for Reconsideration at 20; Letter from Kathleen B. Levitz, BellSouth, to Magalie Roman Salas, FCC, dated October 19, 2000; *see also* USTA Comments at 4-5.

[64] SBC Comments at 53.

[65] SBC Comments at 7.

have implemented pooling,[66] we seek comment in the attached *Second Further Notice* on the need, and specific criteria to be used, for a "safety valve" for carriers that do not meet the utilization threshold for a given rate center, but have a demonstrable need for additional numbering resources. In the interim, until an alternative "safety valve" process is established, carriers that do meet the utilization threshold in a given rate center may continue to seek waivers from the Commission to obtain additional numbering resources.

IV. THOUSANDS-BLOCK NUMBER POOLING

A. Selection of Thousands-Block Number Pooling Administrator

34. In the *First Report and Order*, we determined that implementation of thousands-block number pooling is essential to extending the life of the NANP by making the assignment and use of NXX codes more efficient.[67] We therefore mandated nationwide thousands-block number pooling in the 100 largest metropolitan statistical areas (MSAs), and set forth requirements and a national framework for implementation. Specifically, we required participation in pooling by carriers that are required to be LNP-capable, either because they provide service in one of the largest 100 MSAs, or pursuant to a request from another carrier,[68] and directed that thousands-block number pooling be deployed first in NPAs that are located in the largest 100 MSAs.[69] We also directed covered Commercial Mobile Radio Service (CMRS) providers to implement thousands-block number pooling after the forbearance from the LNP requirements expires on November 24, 2002.[70] In addition, we required states that have implemented their own pooling trials under delegated authority to bring these trials into conformity with the national framework set forth in the *First Report and Order*.[71] Finally, we adopted certain technical requirements to ensure a consistent nationwide pooling architecture.[72]

35. We also concluded that thousands-block number pooling should be administered by a single national Pooling Administrator, but delayed implementation of pooling on a nationwide basis until the national Pooling Administrator is selected through a competitive

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66 *See, e.g.*, Letter from Kathleen B. Levitz, BellSouth, to Magalie Roman Salas, FCC, dated November 30, 2000. Even after pooling is implemented, some carriers argue that they will only be able to port numbers between switches in thousands-blocks. *Id.*

67 *First Report and Order*, 15 FCC Rcd at 7625, para. 122.

68 *Id.* at 7627, para. 125.

69 *Id.* at 7645, para. 158.

70 *Id.* at 7632, para. 134.

71 *Id.* at 7651, para. 169; *see also id.* at 7643-49, paras. 156-66; 7653-61, paras. 172-191 for a general description of the national framework for thousands-block number pooling. We have stayed these requirements pending resolution of petitions filed by Maine and California. *See infra* section IV.B.

72 *See First Report and Order*, 15 FCC Rcd at 7656, para. 181 (adopting the T1S1.6 Technical Requirements as the technical standard for thousands-block number pooling); *id.* at 7657, para. 182 (stating that the inclusion of Efficient Data Representation (EDR) in the pooling software used for thousands-block number pooling is significant because it will reduce the strain on the network from the large volume of number porting).

bidding process.[73] We delegated authority to the Commission's Office of the Managing Director (OMD), with the assistance of the Common Carrier Bureau and the Office of the General Counsel, to prepare the necessary bidding information and to develop an evaluation process for the Commission to use in soliciting bids for a national Pooling Administrator.[74] We also directed the North American Numbering Council (NANC)[75] to make revisions to its proposed Thousands-Block Pooling Administrator Requirements Document to specify the technical requirements for national pooling administration.[76] On September 5, 2000, the Common Carrier Bureau released a Public Notice seeking comment on the technical requirements recommended by the NANC.[77] After reviewing the comments received from several parties,[78] OMD, with the assistance of a technical consultant, MITRE Corporation,[79] developed a Request for Proposal (RFP) to be used in the selection of the national Pooling Administrator. To facilitate an expeditious implementation of national thousands-block number pooling, OMD determined that a limited competitive bidding process is appropriate, and thus identified and is inviting bids from three potential bidders known for having experience in numbering administration: Mitretek Systems, NeuStar, Inc., and Telcordia Technologies, Inc. The procurement of a national Pooling Administrator is being conducted in accordance with the requirements of the Federal Acquisition Regulation (FAR).[80]

36. We note that as a consultant to the Commission for pooling administration, MITRE's fees are part of the cost of establishing pooling administration. MITRE's services have been an integral aspect of the Commission's establishment of pooling administration. Therefore,

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[73] *Id.* at 7639-43, paras. 148-55.

[74] *Id.* at 7643, para. 155. The NANC submitted its proposed technical requirements on July 20, 2000. *See* Letter from John Hoffman, Chairman, North American Numbering Council, to Lawrence E. Strickling, Chief, Common Carrier Bureau, dated July 20, 2000.

[75] The NANC was created under the Federal Advisory Committee Act, 5 U.S.C. App 2 (1988), to advise the Commission and to make recommendations, reached through consensus, that foster efficient and impartial number administration. The membership of NANC, which includes twenty-eight voting members and four special non-voting members, was selected to represent all segments of the telecommunications industry as well as regulatory entities and consumer groups with interests in number administration. The current NANC charter directs the Council to develop recommendations on numbering policy issues and facilitate number conservation including identification of technical solutions to number exhaust.

[76] *First Report and Order*, 15 FCC Rcd at 7643, para. 155.

[77] *The Commission Seeks Comments On The Thousands-Block Pooling Administrator Technical Requirements*, Public Notice, CC Docket 99-200, DA 00-2011 (rel. Sept. 5, 2000).

[78] Commenting parties include: AT&T; BellSouth; California Commission; Cox; Florida Commission; Maine Commission; NeuStar; New Hampshire Commission; New York Commission; Pennsylvania Office of Consumer Advocate; Missouri Commission; Texas Commission; RCN Telecom Services; SBC; Telcordia; USTA; WorldCom.

[79] The techincal consultant is MITRE Corporation. MITRE is a section 501(c)(3) not-for-profit corporation that operates federally funded research and development centers for various agencies.

[80] The FAR is Chapter 48 of the C.F.R. The FAR governs the acquisition by contract of supplies and services by and for the use of the Federal Government.

MITRE's fees will be borne by carriers in a competitively neutral manner in the same way that the direct costs of pooling administration are borne.

37. Of particular concern with this procurement is the fairness of the bidding process, in light of the NANC's earlier interactions with NeuStar in its capacity as NANPA and for several state pooling trials.[81] Telcordia, for example, stated its belief that as a Pooling Administrator, NeuStar would have an advantage in the bidding process,[82] and asked the Commission to be vigilant to ensure that NeuStar did not use its NANPA and Number Portability Administrator Center (NPAC) administrator positions to gain an unfair competitive advantage in bidding to provide national pooling administration.[83] In response to these concerns, we have taken affirmative steps to structure the procurement process to ensure that no party has an unfair competitive advantage. First, we asked the NANC to "scrub" its proposed Requirements Document, and ensure that its technical requirements are competitively neutral and do not favor any particular party. We then solicited comments from the public on the proposed technical requirements to ensure that all interested parties had an opportunity to voice any concerns or issues about the content of the technical requirements.[84] Next, we hired a neutral third party consultant to help us evaluate and further refine the technical requirements, develop an RFP, and assist us with the evaluation of competitive bids to facilitate an equitable process. We believe that the technical expertise of the consultant, coupled with its status as a neutral third party, adds safeguards to the procurement process and helps to eliminate any perceived or actual advantages for any one party. Moreover, we ensured that no potential bidder had access to any information pertaining to the RFP or the selection process, unless all potential bidders had access to such information. We also ensured that all potential bidders obtained any non-proprietary information relevant to the RFP or the selection process that they requested. It is anticipated that the national Pooling Administrator selection will be made in the first quarter of 2001.

1. Pooling Administrator Term of Appointment

38. *Background.* In the *First Report and Order*, we indicated our intent to have the national Pooling Administrator serve until the completion of the current NANPA's term.[85] This would effectively give the national Pooling Administrator an initial term of less than two years. Several commenters, including Telcordia, opined that the proposed term is too short.[86] Telcordia asserts that the length of the award cycle makes it difficult for a Pooling Administrator bidder to recoup its start up costs.[87] Telcordia states that, like the NANPA contract, the national Pooling

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81 *See, e.g.*, Telcordia Comments at 2-3.

82 *Id.* at 2.

83 *Id.* at 3.

84 *The Commission Seeks Comments On The Thousands-Block Pooling Administrator Technical Requirements*, Public Notice, CC Docket 99-200, DA 00-2011 (rel. Sept. 5, 2000).

85 *First Report and Order*, 15 FCC Rcd at 7643, para. 155. The NANPA's term ends in November 2002.

86 Telcordia Comments at 3; Telcordia Petition for Reconsideration at 1.

87 *Id.*

Administrator award period should be set at five years.[88] Other parties disagree.[89] WorldCom, for example, states that the Commission should not reconsider its decision to make the initial Pooling Administrator term coterminous with the current NANPA term, so as not to foreclose potential synergies between the NANPA and the Pooling Administrator.[90]

39. *Discussion.* We conclude that the term of the thousands-block number Pooling Administrator will be five years. Thus, the Pooling Administrator's initial contract will not be coterminous with the NANPA's term. We agree with Telcordia's assertion that the Pooling Administrator contract need not be tied to the NANPA's contract.[91] We believe that a five-year award cycle will better enable the Pooling Administrator to recoup its startup costs, because it allows the Administrator to spread its startup costs over a longer period of time.[92] We note that a five-year contract should enhance competition by allowing bidders to offer a more attractive annual contract price, thus increasing the interest of bidders in the contract.[93] A longer term will also benefit carriers, who will be able to spread their costs associated with thousands-block number pooling administration over a longer period of time. Moreover, we note that if the Pooling Administrator term were coterminous with the NANPA term, by allocating up to nine months of the Pooling Administrator term to preparation for the national rollout, the Pooling Administrator would have less than a year of operation before the term would end.[94]

40. We nevertheless agree with WorldCom that it may be desirable in the future to link the thousands-block number pooling administration and central office code administration duties to take advantage of any synergies that may be achieved by one entity serving in both capacities.[95] We however are cognizant that vendor diversity for number administration services may have advantages for the industry and the public.[96] We therefore intend to revisit the question of whether the NANPA's and the Pooling Administrator's contract terms should be coterminous in the future.

B. State Pooling Trials – California and Maine Petitions

41. *Background.* As we enunciated in the *First Report and Order*, uniform standards for thousands-block number pooling are necessary to minimize the confusion and additional

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88 *Id.*

89 *See* WorldCom Opposition.

90 WorldCom Opposition at 14.

91 Telcordia Petition for Reconsideration at 1.

92 Telcordia Comments at 3-4; Telcordia Petition for Reconsideration at 1-2.

93 Telcordia raised concerns that a short-term contract would likely prevent the Pooling Administrator from recouping its start-up costs. *See* Telcordia Comments at 3; Telcordia Petition for Reconsideration at 1.

94 *First Report and Order,* 15 FCC Rcd at 7643, para. 156.

95 WorldCom Opposition at 14; *see also First Report and Order*, 15 FCC Rcd at 7642, para. 152.

96 *First Report and Order*, 15 FCC Rcd at 7642, para. 152.

expense related to compliance with inconsistent regulatory requirements.[97] We recognized in the *First Report and Order* that pooling trials already underway might not conform to the standards set forth in the national framework.[98] Thus, we required state commissions to bring their pooling trials into conformity with the national framework by September 1, 2000.[99] Our goal in establishing the September 1, 2000 deadline was to give state commissions time to bring their pooling trials into conformity with the national framework, and to facilitate uniformity in the implementation of thousands-block number pooling on a nationwide basis.[100]

42. On August 4, 2000, the California Commission requested a waiver from compliance with the Commission's directive in the *First Report and Order* to conform their thousands-block number pooling trial to the Commission's national pooling rules by September 1, 2000.[101] On August 14, 2000, the Maine Commission sought similar relief.[102] Specifically, both petitioners seek to continue applying their utilization thresholds until the national pooling rollout begins.[103] Maine also specifically seeks relief from our sequential numbering rules.[104] California and Maine seek waivers from complying with the September 1, 2000 deadline so that they may continue to require pooling carriers to meet a utilization threshold, which they assert has proven integral to the success of their number pooling trials.[105] Although both petitioners request relief from the national pooling rules in general, their petitions enumerate specific arguments supporting only their requests to continue to apply a utilization threshold for pooling carriers.[106] California and Maine further assert that conforming to national pooling rules would be detrimental to their efforts to delay the exhaust of area codes.[107] Both California and Maine state that they will conform to national number pooling rules when national pooling implementation begins.[108]

43. In support of its waiver request, Maine states that uniformity is the exception and not the rule in telephone regulation.[109] Maine believes that each state's circumstances are

97 *Id.* at 7651, para. 169.

98 *Id.*

99 *Id.*

100 *Id.*

101 *See generally* California Petition.

102 *See generally* Maine Petition. New Hampshire sought similar relief in comments it filed in support of California and Maine's Petitions. *See generally* New Hampshire Commission Comments.

103 California Petition at 1-2; Maine Petition at 1.

104 Maine Petition at 1.

105 California Petition at 2; Maine Petition at 2-3.

106 *See generally* California Petition; Maine Petition.

107 California Petition at 3; Maine Petition at 7.

108 California Petition at 2; Maine Petition at 1.

109 Maine Reply Comments at 2.

different and "that if it must bear the responsibility of area code relief, it should be given the flexibility to implement conservation measures which meet its specific needs."[110] California and Maine are also concerned about the possibility that, under the Commission's national rules, pooling carriers will be allowed to acquire more new numbers than they need by submitting a months to exhaust calculation based upon completely subjective projections of future numbering needs.[111] On August 31, 2000, the Commission released an Order granting California and Maine a stay of the requirement to comply with national pooling rules until December 31, 2000, or until we ruled on the merits of the petitions, whichever date is sooner.[112]

44. *Discussion.* In applying utilization thresholds to pooling carriers as discussed above, we grant California and Maine the primary relief sought in their petitions. Specifically, they and all other states that have commenced pooling trials in which they apply a utilization threshold to pooling carriers may continue to use their thresholds if the thresholds meet or exceed the 60% utilization threshold established herein for all other carriers, using our methodology for calculating utilization.[113] States using a utilization threshold that exceeds the currently established initial threshold of 60% in an active pooling trial need not decrease their threshold in that area, but may continue to use their threshold up to a maximum level of 75%. When the national Pooling Administrator takes over the administration of these pooling trials, states will have the option of maintaining the higher utilization threshold rather than lowering the threshold to conform to the national level.[114]

45. Maine also seeks relief from our sequential numbering rules.[115] Maine states that the *First Report and Order* implements a standard for sequential numbering that provides little guidance to carriers and provides them with ample room to avoid strict compliance.[116] Maine describes neither what its sequential numbering rules are, nor how its sequential numbering rules differ from the national rules. Moreover, Maine proffers no reason why it cannot comply with the national rules. Also, contrary to Maine's assertions, we have not received other comments that our rules do not provide enough guidance. Moreover, we believe that the national rules should address Maine's concerns about sequential numbering. We also believe the benefit of having a uniform requirement outweighs the potential inconvenience and confusion from the existence of disparate requirements. We therefore conclude that all service providers must assign numbers in

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110 Maine Reply Comments at 2.

111 California Petition at 4; Maine Petition at 6. *See supra* section III for a more detailed discussion of months to exhaust calculations and utilization thresholds.

112 *Numbering Resource Optimization*, Order, CC Docket No. 99-200, FCC 00-333 (rel. Aug. 31, 2000).

113 *See supra* section III.

114 We note that state commissions that currently apply a higher utilization threshold to non-pooling carriers pursuant to delegated authority may also continue to apply their thresholds up to a maximum level of 75%. *See supra* para. 23.

115 Maine Petition at 1.

116 *Id.* at 5.

accordance with the sequential numbering rules we established in the *First Report and Order*.[117]

46. Finally, we conclude that all states must conform all other aspects of their pooling trials to the national framework. They will be given a transition period of three months from the date of publication of this *Second Report and Order* in the Federal Register to make any necessary adjustments. Both the California and Maine Commissions are to be commended for their stewardship of numbering resources in their respective states. Moreover, we recognize the need for state commissions to have some flexibility in rendering numbering administration decisions pursuant to their delegated authority. We agree, however, with AT&T that "state commissions have long been on notice that their interim pooling authority would be superseded by national standards, and they presumably established their pooling trials with that fact in mind."[118] We find that national requirements sufficiently support our numbering resource optimization goals, while ensuring that service providers are subject to the same rules and requirements for each state in which they operate. We also find that compliance with a national, uniform framework for thousands-block number pooling will permit service providers to avoid having to conform with different requirements for every jurisdiction in which they operate, which would be unwieldy and inefficient for service providers from both a regulatory and a financial perspective. Moreover, a lack of uniformity would harm consumers, who would likely incur the costs imposed on service providers operating under disparate pooling regimes.

C. Thousands-Block Number Pooling for Covered CMRS Carriers

47. *Background.* In the *Further Notice*, we sought comment on whether covered CMRS carriers should be required to participate in pooling by the LNP forbearance period on November 24, 2002.[119] In the alternative, we sought comment on whether we should allow a transition period between the time that covered CMRS carriers must implement LNP and the time they must participate in pooling, and if so, what the minimum reasonable allowance for such a transition period would be. We noted that by determining, in the *First Report and Order*, that CMRS carriers would be required to participate in pooling once they have acquired LNP capability, we were providing more than two years of lead time for carriers to perform the necessary preparations.[120]

48. State commissions generally oppose granting any additional time to CMRS carriers, arguing that, because carriers have been on notice for over two years that they would be required to implement pooling, they should not require additional time to make the necessary system changes.[121] Carriers, on the other hand, assert that they need additional time to make

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[117] *First Report and Order*, 15 FCC Rcd at 7684-85, paras. 244-245.

[118] AT&T Opposition at 2.

[119] *First Report and Order*, 15 FCC Rcd at 7686, para. 249.

[120] *Id.*

[121] *See, e.g.*, California Commission Comments at 6-8; Consumer Commenters Comments at 20-21; Maine Commission Comments at 5; Missouri Commission Comments at 3; New Hampshire Commission Comments at 7; Texas Commission Comments at 3-4.

changes to their systems to implement pooling. For example, VoiceStream states that to implement pooling, carriers must modify their local service management systems (LSMSs), service control points (SCPs), service order administration systems (SOAs), and operations support systems (OSSs).[122]

49. *Discussion.* In the *First Report and Order*, we found that implementation of thousands-block number pooling in major markets is essential to extending the life of the NANP by making the use of NXX codes more efficient.[123] In determining that CMRS carriers would be required to participate in pooling once they acquired LNP capability, we noted that CMRS providers would be able to contribute meaningfully to the numbering efficiencies to be gained by thousands-block number pooling.[124]

50. Based on the record before us, we decline to adopt a transition period between the time that covered CMRS carriers must implement LNP and the time they must participate in any mandatory number pooling. While carriers will have to modify some of their systems to implement pooling, we agree with states that, because carriers are on notice that they will be required to participate in pooling, and because pooling and LNP involve substantially similar technical modifications, carriers should be able to implement pooling in the same time frame that they achieve LNP capability.[125] Carriers have not provided us with sufficient evidence demonstrating that they will not be able to implement pooling by the deadline for implementation of LNP.[126]

51. We are not persuaded by carriers' assertions that a brief transition period is necessary to allow them time to troubleshoot any problems that may occur after LNP deployment.[127] Carriers have not identified sufficiently any specific additional risks of implementing LNP and pooling at the same time. For instance, by the time wireless carriers begin to participate in pooling, number pools will be well established in many areas of the country, and many of the initial implementation problems will have previously been worked out. Moreover, carriers have not explained why any potential risks could not be anticipated and addressed prior to the LNP implementation deadline. In declining to adopt a transition period, we note that the fundamental administrative and technological elements for thousands-block number pooling are

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122 VoiceStream Comments at 14.

123 *First Report and Order,* 15 FCC Rcd at 7625, para. 122.

124 *Id.* at 7635, para. 140.

125 Thousands-block number pooling implementation requires carriers to make the same network changes as those required to implement LNP. *See* Number Resource Optimization Working Group Modified Report to the North American Numbering Council on Number Optimization Method, October 20, 1998 at 91; *see also* North American Numbering Council Wireless Number Portability Subcommittee Report on Wireless Number Portability Technical, Operational and Implementation Requirements Phase II Version 1.7, submitted to the Commission on September 26, 2000; CTIA Report on Wireless Number Portability Version 2.0.

126 Carriers have been on notice for several years that they must comply with our LNP requirements by November 24, 2002.

127 *See, e.g.,* AT&T Comments at 8-9; BellSouth Comments at 10; Bell Atlantic Comments at 8-9.

currently, or will soon be, available. For example, there already are guidelines for the administration and assignment of thousands blocks to LNP-capable service providers required to participate in thousands-block number pooling.[128] In addition, NPAC Release 3.0, which is LNP software that includes efficient data representation (EDR) for number pooling, is currently being tested.[129] EDR allows a location routing number (LRN) to be associated with a block of one thousand numbers as a single record.[130] Because EDR allows one thousand numbers to be downloaded and stored as a single record, instead of one-thousand records, it is expected to significantly extend a carrier's SCP capacity for thousands-block number pooling.[131] The availability of the Thousands-Block Pooling Administration Guidelines, as well as the NPAC Release 3.0 software, should help CMRS carriers implement pooling by the LNP implementation deadline.

V. AREA CODE RELIEF AND PENNSYLVANIA NUMBERING ORDER PETITIONS FOR RECONSIDERATION AND CLARIFICATION

A. Introduction

52. In the *First Report and Order*, we set forth a number of administrative and technical measures that focus on conservation of numbering resources within each NPA or area code. By maximizing efficient use of numbers within area codes, we reduce the need to introduce new area codes, which protects consumers from the expense, trouble and dislocation that area code relief entails and also can help prevent premature exhaust of the existing NANP. We recognize, however, that the adoption of these numbering optimization measures does not eliminate the need for states to continue to implement area code relief in area codes that are approaching depletion. Therefore, in the *Notice*, we considered what action we could take to assist states in implementing area code relief in a manner that is consistent with other numbering resource optimization measures that we may adopt in the *Numbering Resource Optimization* proceeding.

53. In this section, we address whether we should amend the existing federal guidelines or develop additional federal guidelines for area code relief. We also address the advantages and disadvantages of geographic splits and all-services overlays, the approaches most commonly used by states to accomplish area code relief, and whether area code overlays are preferable to geographic splits from a numbering resource optimization perspective. Moreover, we examine the possible uses of reverse overlays and expanded overlays as area code relief options. Furthermore, we reexamine our current prohibition on service-specific and technology-specific overlays. Finally, we address related petitions for clarification or reconsideration that

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[128] The latest "Thousand Block NXX-X Pooling Administration Guidelines" (INC 99-0127-023) can be found at <http://www.atis.org>.

[129] *See LNPA Working Group Status Report to the NANC*, October 17, 2000, North American Numbering Council Meeting, at 1.

[130] *See First Report and Order*, 15 FCC Rcd at 7655, para. 177.

[131] *Id.*

were filed in response to the *Pennsylvania Numbering Order.*[132]

B. Background

54. Traditionally, when the supply of numbers available within an area code is estimated to exhaust during the planning horizon, some form of area code relief must be implemented so that customers in that area can continue to obtain the services they desire from the carrier of their choice. The implementation of new area codes has been the primary relief measure employed in geographic areas experiencing numbering resource shortages brought on by the rapid growth in demand for central office codes or NXX codes. Pursuant to Section 251(e)(1) of the Act, the Commission has delegated to state commissions the authority to direct the form of area code relief, to perform the functions associated with initiating and planning area code relief, and to adopt final area code relief plans, subject to Commission guidelines for numbering administration.[133]

55. On September 28, 1998, we released the *Pennsylvania Numbering Order*, delegating additional authority to state commissions to order NXX code rationing in conjunction with area code relief decisions, in the absence of industry consensus.[134] The order further approved a mandatory thousands-block number pooling trial in Illinois.[135] The order provided that state commissions could order voluntary pooling trials,[136] but in view of our efforts to develop national pooling standards, we declined to delegate to state commissions the general authority to order mandatory number pooling.[137] The *Pennsylvania Numbering Order*, however,

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[132] *Pennsylvania Numbering Order*, 13 FCC Rcd at 19025, para. 23.

[133] 47 U.S.C. § 251(e)(1); *see also Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392 (1996) (*Local Competition Second Report and Order), vacated in part,* California v. FCC, 124 F.3d 934 (8th Cir. 1997), *rev'd* AT&T v. Iowa Utils. Bd., 199 S. Ct. 721 (1999). The authority delegated to the states includes determination of the boundaries of a new area code; the implementation date for the new area code; directing public education efforts regarding area code changes; and the mechanism for introducing the new area code (*e.g.*, via an area code split, overlay, or a boundary realignment). State commissions were also delegated the authority to perform the functions associated with initiation and development of area code relief plans. The Commission found that enabling states to initiate and develop area code relief plans was generally consistent with our delegation of new area code implementation matters to the state commissions based on their unique familiarity with local circumstances. The Commission made this delegation, however, only to those states wishing to perform area code relief initiation and development. Because the Commission recognized that many state commissions may not wish to perform these functions because the initiation and development of area code relief can require specialized expertise and staff resources and development that some state commissions may not have, it required states seeking to perform any or all of these functions to notify the new NANP administrator within 120 days of the selection of the NANP administrator.

[134] *Pennsylvania Numbering Order*, 13 FCC Rcd at 19025, para. 24.

[135] *Id.* at 19029-30, para. 30.

[136] *Id.* at 19027-28, para. 27.

[137] *Id.* at 19027, para. 27. Subject to conditions, we permitted state commissions to withhold a certain number of NXX codes within a new area code for purposes of number pooling. *Id.*

encouraged state commissions to seek limited delegations of authority to implement other number conservation measures.[138]

C. Federal Guidelines for Area Code Relief

56. *Background.* As discussed above, state commissions were delegated the authority to direct the form of area code relief, to perform the functions associated with initiating and planning area code relief, and to adopt final area code relief plans, subject to the Commission's guidelines for numbering administration.[139] In the *Notice*, we sought comment generally on whether we should amend the existing federal guidelines or develop additional federal guidelines for area code relief, to facilitate the optimization of numbering resources.[140]

57. *Discussion.* We decline to amend the existing federal rules for area code relief or to specify any new federal guidelines for the implementation of area code relief at the present time. State commissions may continue to authorize area code relief in accordance with previous Commission rulings. We continue to believe that state commissions are uniquely positioned to determine when, and in what form, to implement area code relief.[141]

58. Some commenters suggest that the Commission should impose limits on the time state commissions may take to complete the implementation process for new area codes.[142] We decline to do so at this time. We agree that timely implementation of area code relief is critically important to telecommunications carriers' ability to compete in the telecommunications marketplace. We are also, however, sensitive to the states' desire to minimize the consumer impact of area code relief by not implementing new area codes any sooner than necessary. Recent experiences have revealed how difficult it is to balance both of these concerns.

59. NANP administration must reflect sensitivity to the growth and dynamic nature of the telecommunications industry. The ready availability, and use, of numbering resources by communications service providers is essential to the public receiving the communications services it wants and needs. Unavailability of numbers, or an inefficient allocation of available numbers, could prevent or discourage consumers from taking new services.[143] Thus, the timely

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138 *Id.* at 19030, para. 31.

139 *Local Competition Second Report and Order*, 11 FCC Rcd at 19512, para. 271.

140 *Notice*, 14 FCC Rcd at 10427, para. 247.

141 *See* California Commission Comments at 43; Ohio Commission Comments at 40. State commissions face an enormous burden in determining when, and in what form, to implement area code relief. In the initial stages, state commissions must expend resources to convene public meetings and to plan for area code relief. They must also work with the NANPA and the industry to effect the chosen area code relief plan, and bear the costs of notifying the public. Furthermore, state commissions inevitably bear the brunt of consumer dissatisfaction with whatever method of area code relief is chosen.

142 AirTouch Comments at 13; Sprint Comments at 24.

143 *See* Bell Atlantic Comments at 39 (stating that area code relief has been delayed with accompanying harm to consumers).

implementation of area code relief is essential if new providers are to enter and new services are to appear in the telecommunications marketplace. We continue to believe that we must rely on state commissions to make area code relief decisions because of their unique position to ascertain and weigh the very local and granular information inherent in area code relief decision making. In addition, no commenter has proposed a workable federal rule or "trigger" to require area code relief if states fail to implement it in what they believe to be a timely manner. Because of the importance of this issue to competition, however, we emphasize that we will continue to monitor area code relief carefully, and reserve the right to take a stronger role in this process should circumstances warrant. We acknowledge that the decision of when to implement area code relief is difficult, and that consumers can be harmed if new area codes are implemented too early or too late. The implementation of new area codes before they are necessary forces consumers to go through the expense and dislocation of changing telephone numbers or dialing patterns earlier or more often than necessary. On the other hand, delayed implementation of necessary area code relief can leave carriers without the numbering resources they need to provide consumers with the services they are demanding.[144] Long term rationing and other restrictions on access to numbers poses an insidious threat to competition, as it can cause carriers to move their business to where numbers are more readily available, robbing consumers of competitive choices.

60. In general, numbering administration should promote entry into the communications marketplace by making numbering resources available on an efficient and timely basis, should not unduly favor or disadvantage a particular industry segment or group of consumers, and should not unduly favor one technology over another.[145] In applying these principles, state commissions must take all necessary steps to prepare an NPA relief plan that may be adopted by the state commission when numbering resources in the NPA are in imminent danger of being exhausted.[146] Furthermore, the implementation of any numbering resource optimization measures adopted in this proceeding does not eliminate the need for states to continue to implement area code relief in those area codes that are approaching depletion.[147]

61. We also reaffirm our commitment to the guidelines enumerated in the *Pennsylvania Numbering Order* regarding the rationing of NXX codes. In prior orders, we have declined to grant state commissions authority to adopt NXX code rationing procedures prior to adopting an area code relief plan, except in the most extreme circumstances.[148] Some

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[144] Section 253 of the Act provides that no state requirement may prohibit or have the effect of prohibiting the ability of any entity to provide telecommunications service. 47 U.S.C. § 253(a).

[145] 47 C.F.R. § 52.9(a)(1)-(3).

[146] *See, e.g.*, Paging Network Comments at 2.

[147] As determined in the *Pennsylvania Numbering Order*, state commission implementation of number conservation measures could not be used as "substitutes for area code relief or to avoid making difficult and potentially unpopular decisions on area code relief." *See Pennsylvania Numbering Order*, 13 FCC Rcd at 19027, para. 26.

[148] *See, e.g., Florida Public Service Commission Petition for Expedited Decision for Grant of Authority to Implement Number Conservation Measures*, Order, 14 FCC Rcd 17506, 17522, para. 40 (1999) (*Florida Delegation Order*); *Massachusetts Department of Telecommunications and Energy Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes*, Order, (continued....)

commenting parties suggest, nonetheless, that more and more states are relying on rationing as a means to defer area code relief.[149] As determined in the *Pennsylvania Numbering Order*, the rationing of NXX codes should only occur when it is clear that an NPA will run out of NXX codes before timely implementation of a relief plan.[150] Rationing may only be used to ensure that an area code does not exhaust completely before the state commission, acting expeditiously, can implement a new area code. Specifically, a state commission may order rationing only if it has ordered a specific form of area code relief and has established an implementation date, and the industry is unable to agree on a rationing plan.[151] If the state commission has not yet chosen a relief method and established a relief date, the NANPA, as central office code administrator, and the industry should devise the jeopardy conservation or rationing measures, consistent with the current industry practice. We also emphasized in the *Pennsylvania Numbering Order* that state commissions may not use rationing as a substitute for area code relief.[152] We intend to closely monitor situations where states may be using central office code rationing in lieu of timely area code relief and may take appropriate action if we deem it necessary to ensure our rules are followed.[153] Under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for a want of numbering resources. For consumers to benefit from the competition envisioned by the 1996 Act, it is imperative that competitors in the telecommunications marketplace face as few barriers to entry as possible.

D. Geographic Splits Versus All-Services Area Code Overlays

62. *Background.* A geographic split occurs when the geographic area served by an area code is split into two or more geographic regions and one region maintains the old area code and one (or more) receive one (or more) new area codes.[154] An all-services area code overlay occurs when a new area code is introduced to serve the same geographic area as an existing area

(Continued from previous page)
14 FCC Rcd 17447, 17464, para. 41 (1999) (*Massachusetts Delegation Order*); *New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures*, Order, 14 FCC Rcd 17467, 17481-82, para. 32, 33 (1999) (*New York Delegation Order*); *but see California Public Utilities Commission Petition for Delegation of Additional Authority Pertaining to Area Code Relief and NXX Code Conservation Measures*, Order, 14 FCC Rcd 17485, 17503-04, para. 37, 40 (1999) (*California Delegation Order*); (noting that unique circumstances exist in California which require public participation in the area code relief planning process at least 30 months prior to the submission of a recommended relief plan to the California Commission).

149 *See, e.g.*, AT&T Comments at 64.

150 *Pennsylvania Numbering Order*, 13 FCC Rcd at 19025-26, para. 24.

151 *Id.*

152 *Pennsylvania Numbering Order*, 13 FCC Rcd at 19027, para. 25; *see also First Report and Order*, 15 FCC Rcd at 7581, para. 7.

153 *See First Report and Order*, 15 FCC Rcd at 7652, para. 171; *see also* Letter from William E. Kennard, Chairman, FCC, to Loretta M. Lynch, President, California Commission, dated October 18, 2000.

154 47 C.F.R. § 52.19(c)(1).

code.[155] The Commission has concluded that, if a state commission chooses to implement an all-services overlay, the all-services overlay plan must include mandatory ten-digit local dialing by all customers between and within area codes in the area covered by the new code.[156] NANPA data reveal that state commissions implement new area codes through the implementation of geographic splits significantly more often than through the use of overlays.[157] In the *Notice*, we sought comment on the advantages and disadvantages of all-services overlays and geographic splits from a numbering resource optimization perspective, and whether there is a need for additional rules or guidelines at the federal level with respect to the implementation of geographic splits by state authorities.[158] We also sought comment on whether there is a need to modify our existing guidelines with respect to the implementation of all-services overlays.[159]

63. *Discussion.* Several commenting parties identified a number of disadvantages of geographic splits as a measure of area code relief when compared with overlays.[160] For example, SBC states that, from a numbering resource optimization perspective, geographic splits result in the less efficient use of NPA resources, especially where carriers stand in line on one side of the geographic split while resources sit unused and unusable, on the other side.[161] Geographic splits also require approximately half of the subscribers in the existing NPA to change to the new NPA. As a result, these subscribers may incur additional cost, including disruption to users due to the need for reprogramming Customer Premises Equipment (CPE) and changes made to stationery and advertising.[162] Because geographic splits require approximately half of the subscribers in the existing NPA to change to a new NPA, successive geographic splits create substantial costs for subscribers, thus increasing the consequences associated with inaccurately forecasting growth versus non-growth areas. Splits can also often create dialing confusion by requiring customers to use one dialing pattern for some calls (seven digits) and another dialing pattern for others (ten

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155 47 C.F.R. § 52.19(c)(3).

156 *Local Competition Second Report and Order*, 11 FCC Rcd at 19518, para. 286.

157 Of the over 100 area codes introduced in the United States since 1995, 17 have been accomplished through all-services overlays. *See* NANPA, NPAs Introduced, November 1, 2000. This document is available at <http://www.nanpa.com/area_codes/npa_introduced.html>.

158 *Notice*, 14 FCC Rcd at 10428, para. 249.

159 *Id.* at 10429, para. 252.

160 Numbering Resource Optimization Working Group Modified Report to the North American Numbering Council on Number Utilization Methods (Oct. 21, 1998) at § 14.0 (NANC Report). This report is available at <http://www.fcc.gov/ccb/Nanc/nanccorr.html>. WorldCom states that geographic splits should be preferred if they can be implemented in a way that recognizes actual community geography. *See* WorldCom Comments at 61.

161 SBC Comments at 97.

162 North Carolina Commission Comments at 17; WHERE HAVE ALL THE NUMBERS GONE? at 16. The tangible costs that consumers may experience include time and effort associated with notifying others of the change in area code, increased confusion and difficulty in competing calls to parties whose area codes have changed, monetary costs associated with reprinting stationery with the new area code, and time and effort associated with reprogramming telephone automatic dialing systems, and other equipment, to incorporate the new area code. *Id.*

digits).[163]

64. Other commenters identified a number of advantages of geographic splits as a measure of area code relief. For example, the Ohio Commission states that geographic splits can be implemented in many NPAs with minimal effects on the vast majority of callers' seven-digit local calling patterns.[164] Thus, with the implementation of geographic splits, any given customer's premises will be served by one NPA, and customers maintain seven-digit intra-NPA dialing.[165] Geographic splits also allow customers the ability to associate an NPA with a unique geographic area.[166] Moreover, geographic splits allow for equal availability of unassigned NXXs in both the new and the old NPA to all industry segments.[167] Other commenters suggest that splits are competitively neutral and offer the benefits of increased competition.[168]

65. Although we recognize that there are advantages and disadvantages to geographic splits as a form of area code relief, we decline to follow the recommendations of parties urging that we enumerate additional rules or guidelines at the federal level with respect to the implementation of geographic splits. We agree with the North Carolina Commission that state commissions continue to need the flexibility to make decisions regarding area code relief and to set the boundaries of a geographic split in the most appropriate way, considering the technical implications for carriers' networks, the local circumstances, consumer preferences, and communities of interest.[169] Although we do not establish additional rules or guidelines regarding the implementation of geographic splits at the present time, we require the state commissions to abide by the same general requirements that this Commission has imposed on the NANPA with regard to numbering administration. Thus, state commissions that choose to implement geographic splits must ensure that numbering resources are made available on an equitable basis; that numbering resources are made available on an efficient and timely basis; that relief not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers; and that the relief not unduly favor one telecommunications technology over another.

66. Several commenting parties also identified a number of advantages of all-services overlays as a measure for area code relief. From a numbering optimization perspective, an all-services overlay creates a new numbering resource that is available for use throughout the entire geographic area covered by the old NPA code,[170] allowing resources to follow demand

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163 Bell Atlantic Comments at 38.

164 Ohio Commission Comments at 40.

165 RCN Comments at 16.

166 North Carolina Commission Comments at 17.

167 NANC Report at § 14.

168 AT&T Comments at 5; Level 3 Comments at 12; RCN Comments at 16.

169 *See* North Carolina Commission Comments at 17; *see also* Ohio Commission Comments at 40 (noting that additional constraints on geographic splits should not be implemented).

170 BellSouth Comments at 18; PrimeCo Comments at 10; SBC Comments at 94.

throughout an area receiving area code relief. As a result, the consequences associated with inaccurately forecasting growth versus non-growth areas may be reduced. Other commenters note that all-services area code overlays are the least disruptive means of providing numbering relief because overlays only affect the assignment of new numbers; existing consumers are not required to change their telephone numbers, in contrast to geographic splits.[171] Businesses avoid the expense of reprinting stationery and business cards, and they will not lose any business opportunities or goodwill due to missed calls.[172] This advantage is particularly significant in high-demand areas where there is a need for more frequent area code relief, because prospective all-services overlays can be implemented without requiring existing consumers to change their telephone numbers, in contrast to geographic splits. Moreover, some commenting parties suggest that area code overlays can be implemented quickly and are perhaps less expensive to implement than splits because no customers are forced to change their numbers.[173]

67. Some commenters identified a number of disadvantages of all-services overlays.[174] First, customers must use ten-digit dialing for calls in their own area, both to call numbers that use the overlay area code and, pursuant to the Commission's mandate, to call numbers within their own area code.[175] Thus, although an overlay does not require existing customers to change their own telephone numbers, it leads to additional costs associated with ten-digit dialing and it reduces the ability of customers readily to identify geographic areas with specific NPAs.[176] Second, from a numbering optimization perspective, if an all-services overlay is implemented on a prospective basis (*i.e.*, no existing customers are reassigned to the new NPA), it does not free up new numbering resources within the existing NPA. Thus, new entrants in a market are less likely to be able to obtain numbers in the existing NPA, and therefore may be less able to compete effectively against incumbents for customers desiring numbers in the existing NPA. Furthermore, Cox contends that there is no inherent benefit to all-services overlays because all-services overlays do not increase the total numbering resources throughout the NPA.[177]

68. Some commenting parties state that all-services overlays should be the preferred method of choice for area code relief at the present time.[178] SBC, for example, urges the Commission to adopt a presumption in favor of all-services overlays in the largest 100 MSAs and require all-services overlays where either an exhausting area code has failed to last for the recommended interval in the Industry Numbering Committee's (INC's) NPA relief planning

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171 Bell Atlantic Comments at 38; Small Business Alliance Comments at 3.

172 SBC Comments at 94; Small Business Alliance Comments at 3.

173 Bell Atlantic Comments at 38; BellSouth Comments at 20.

174 NANC Report at § 12.1.

175 *Local Competition Second Report and Order*, 11 FCC Rcd at 19518, para. 287.

176 NANC Report at § 12.1; *see also* Cox Comments at 24 (noting that there are significant unmeasured costs, such as costs of converting to ten-digit dialing and costs of replacing or updating legacy customer equipment).

177 Cox Comments at 24.

178 BellSouth Comments at 18; Richard Eyre Comments at 1.

guidelines or the new area code is projected to last less than the recommended interval in the guidelines.[179] At this time, we decline to adopt a presumption in favor of all-services overlays as a method of area code relief. We believe that state commissions are singularly situated to determine the best available relief plan among the alternatives presented based on local geography, local needs, the public interest, and carrier compatibility. State commissions are uniquely positioned to evaluate the best relief plan on a case-by-case basis and, therefore, the determinations of appropriate relief should be left to state commissions.[180] We also believe that specific circumstances and considerations in each relief area should determine which option—geographic split or all-services overlay—would best suit the area.[181] Thus, state commissions may continue to make decisions regarding the relative merits of area code splits and overlays so long as they act consistently with the Commission's guidelines.[182] In addition to these two options, state commissions should consider whether a third option, boundary realignments, would better serve their area code relief needs.

69. Several commenters in this proceeding also suggest suspending or eliminating the ten-digit dialing requirement for all-services overlays.[183] Ameritech, for example, contends that suspending the ten-digit dialing requirement will provide the incentive for states to implement all-services area code overlays.[184] SBC states that developments since the *Local Competition Second Report and Order* have eliminated the need for the ten-digit dialing requirement.[185] The North Carolina Commission states that, although the ten-digit dialing requirement mitigates dialing disparity resulting from the implementation of an overlay that could be conceived as a competitive disadvantage, it does not justify the inconvenience of ten-digit dialing being forced upon citizens who are not yet enjoying any benefits of a competitive marketplace.[186] Other commenters, however, support the retention of the mandate that calls placed both within and outside of the subscriber's NPA use ten digits when an overlay is implemented.[187] The Small Business Alliance, for example, notes that ten-digit dialing is so common in many areas that customers automatically

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[179] SBC Comments at 94-95. The INC is a standing committee of the Carrier Liason Committee (CLC), one of the fora sponsored by the Alliance for Telecommunications Industry Solutions (ATIS). The INC addresses issues associated with the planning, administration, allocation, assignment and use of numbering resources and related dialing considerations, and has developed guidelines for the assignment and administration of all types of numbering resources, as well as for the administration of area code relief.

[180] *See, e.g.*, AT&T Comments at 67; California Commission Comments at 43.

[181] ALTS Comments at 28.

[182] SBC Comments at 94.

[183] Ameritech Reply Comments at 15; North Carolina Commission Comments at 18; SBC Comments at 101 (noting that the ten-digit dialing requirement is outmoded and unnecessary today).

[184] Ameritech Reply Comments at 15.

[185] SBC Comments at 102.

[186] North Carolina Commission Comments at 18.

[187] AT&T Comments at 67; ALTS Comments at 30-31 (stating that the ten-digit dialing requirement is essential to ensuring that an overlay does not disadvantage competitive LECs and their customers).

give their area code and number when leaving a message on voice mail or on an answering machine.[188]

70. We continue to believe that imposing the ten-digit dialing requirement on the implementation of all-services overlays will ensure that competitors, including small entities, do not suffer competitive disadvantages.[189] We therefore retain the mandatory ten-digit dialing requirement when all-services overlays are implemented.[190] Thus, "no area code overlay may be implemented unless there exists, at the time of implementation, mandatory ten-digit dialing for every telephone call within and between all area codes in the geographic area covered by the overlay area code."[191] We require mandatory ten-digit dialing for all calls in areas served by overlays to ensure that competition will not be deterred in overlay area codes as a result of dialing disparity. We believe that local dialing disparity would occur absent mandatory ten-digit dialing, because all existing telephone users would remain in the old area code and dial seven digits to call others in that area code, while new users with the overlay code would have to dial ten digits to reach any customers in the old code.[192] Requiring ten-digit dialing for all calls avoids the potentially anti-competitive effect of all-services area code overlays.

1. Reverse Overlays

71. *Background.* A "reverse overlay" involves the creation of a single area served by two or more existing NPAs when a previously established NPA boundary is eliminated.[193] The Public Utility Commission of Texas (Texas Commission) has deployed reverse overlays in the Dallas area (214/972) and the Houston area (713/281).[194] In the *Notice*, we sought comment on the use of reverse overlays as a method for area code relief.[195]

72. *Discussion.* We find that reverse overlays can be useful tools to allow the use of otherwise "stranded" numbering resources, and encourage the industry and state commissions to consider their use. According to SBC, reverse overlays have all of the advantages of all-service overlays, and they also eliminate inefficiencies created by a previous, erased geographic split line.[196] GTE states that the reverse overlays deployed in Dallas and Houston were handled easily

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188 Small Business Alliance Comments at 3.

189 *Local Competition Second Report and Order*, 11 FCC Rcd at 19519, para. 288.

190 47 C.F.R. § 52.19(c)(3)(ii).

191 *Id.*

192 *Local Competition Second Report and Order*, 11 FCC Rcd at 19518, para. 287.

193 *Notice*, 14 FCC Rcd at 10429, para. 253.

194 *See Public Utility Commission of Texas Petition for Expedited Waiver of 47 C.F.R. § 52.19(c)(3)(ii) for Area Code Relief*, Order, 13 FCC Rcd 21798 (1998) (granting the Texas Commission a waiver of the ten-digit dialing requirement in section 52.19(c)(3)(ii) for a period not to exceed 6 months from the date of implementation of the reverse overlays).

195 *Notice*, 14 FCC Rcd at 10429, para. 253.

196 SBC Comments at 98.

with few customer problems.[197] Such an overlay plan can be especially useful in areas where the NPAs from the previous split are exhausting unevenly and relief is necessary in one but not the other.[198] Reverse overlays can also be very useful where a slow-growing NPA is adjacent to a fast-growing NPA that is nearing exhaust. Rather than using a new NPA to relieve the area code that is nearing exhaust, the state could turn the adjacent, slow-growing NPA into an overlay, thereby freeing up NPA-NXXs in the slower-growing code that might otherwise have continue to lie fallow for years. This approach, if widely deployed, could significantly extend the life of the supply of NPAs in the NANP. We therefore strongly encourage states and the industry to consider it.

2. Expanded Overlays

73. *Background.* The NANC has identified an "expanded overlay" proposal that would implement an overlay covering a region that is larger than an existing NPA.[199] The "expanded overlay" proposal would not replace or change assignment boundaries for existing NPAs, but rather permits the allocation of numbering resources over a potentially larger geographic region.[200] In the *Notice*, we sought comment on the feasibility of expanded area code overlays as a means of allocating new numbering resources to areas facing exhaust of existing NPAs.[201] In particular, we sought comment on the practicality of this approach in light of its potential effect on rating and billing of calls between the overlay NPA and underlying NPAs.[202] We also sought comment on whether there are any practical limits to the size of overlay NPAs.[203]

74. *Discussion.* We encourage state commissions to consider the use of expanded overlays as a means of allocating new numbering resources to areas facing exhaust. There is no requirement that overlay area codes be implemented to use the same geographic boundaries as the underlying area codes. Potentially, use of such expanded overlay area codes could have significant numbering resource optimization benefits, because it would allow for use of a single area code to provide relief to multiple existing codes. Furthermore, as Cox asserts, an expanded NPA overlay could provide ways to improve efficiency of NXX code usage within densely populated areas.[204]

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197 GTE Comments at 72.

198 NANC Report at § 12.2; *see also* SBC Comments at 98 (noting that metropolitan areas where area code splits have been ordered are prime candidates for reverse overlays).

199 NANC Report at § 12.3. We also note that the Georgia Commission implemented an expanded NPA overlay for the 770 and 404 NPAs in Atlanta. *See* North American Numbering Plan Planning Letter, PL-NANP-102, Nov. 21, 1997. This document is available at <http://www.nanpa.com>.

200 NANC Report at § 12.3.1.

201 *Notice*, 14 FCC Rcd at 10430, para. 255.

202 *Id.*

203 *Id.*

204 Cox Comments at 29.

75. Allocating new numbering resources over a larger geographic region than existing NPAs would give states enhanced flexibility to accommodate demand for numbers in high-growth areas that may not correspond to existing area code boundaries. Thus, the relative benefits of an overlay are maximized when the overlay covers the greatest area possible.[205] We note that the creation of expanded area codes may also raise complex rating and billing issues, however, because the overlay NPA would have a larger coverage area than the underlying NPAs it overlaps.[206] We therefore encourage the state commissions and the telecommunications industry to work together to solve these issues if an expanded overlay is implemented in a certain area.

E. Pennsylvania Numbering Order Petitions for Reconsideration and Clarification

76. We also address petitions for clarification or reconsideration that were filed in response to the *Pennsylvania Numbering Order*.[207] In the *Pennsylvania Numbering Order*, the Commission delegated additional authority to state commissions to order number rationing in jeopardy situations and encouraged state commissions to seek further limited delegations of authority to implement other innovative number conservation methods. The Commission, however, clarified that state commissions do not have the authority to order the return of NXX codes or thousand number blocks to the code administrator.[208]

77. Several parties filed petitions for clarification or reconsideration of the *Pennsylvania Numbering Order* as it relates to states' authority to order the return of central office codes or thousand number blocks.[209] In the *First Report and Order*, we recognized that state commissions may be able to resolve certain issues more quickly and decisively than an industry consensus process. In this regard, we granted authority to state commissions to direct the NANPA to reclaim unactivated or unused NXX codes.[210] Similarly, we gave the same authority to the states to direct the Pooling Administrator in state pooling trials, as well as the national thousands-block number Pooling Administrator once national thousands-block number pooling has been established, to reclaim unactivated or unused thousands-blocks.[211] In light of the delegation of authority to the states, the requests that the Commission clarify the *Pennsylvania*

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205 *See* WorldCom Comments at 64. AT&T, however, states that it is unconvinced that expanded overlays would have significant numbering resource optimization benefits. AT&T Comments at 67.

206 *See* AT&T Comments at 67 (stating that expanded overlays make it more difficult for customers to determine whether they will be billed for calls as toll or local).

207 *Pennsylvania Numbering Order*, 13 FCC Rcd 19011, para. 1.

208 *Id.* at 19026, para. 24.

209 Connecticut Commission Pennsylvania Numbering Order Petition for Reconsideration at 7; Maine Commission Pennsylvania Numbering Order Petition for Reconsideration at 1; New Hampshire Commission Pennsylvania Numbering Order Petition for Reconsideration at 2; Pennsylvania Commission Pennsylvania Numbering Order Petition for Reconsideration at 7; *see also Pennsylvania Numbering Order*, 13 FCC at 19026.

210 *First Report and Order*, 15 FCC Rcd at 7680, para. 237.

211 *Id.* at 7681, para. 238.

Numbering Order or reconsider the state commissions' authority to reclaim unused and reserved NXX codes and thousand-number blocks are moot. Accordingly, we dismiss as moot this aspect of the petitions for clarification or reconsideration that were filed in response to the *Pennsylvania Numbering Order*.

78. Several parties also request clarification or reconsideration of the *Pennsylvania Numbering Order* restricting state commissions from imposing number conservation methods (*e.g.*, NXX code rationing) until after a final decision is made regarding the implementation of area code relief.[212] As discussed above,[213] we reaffirm our commitment to the guidelines enumerated in the *Pennsylvania Numbering Order* that the rationing of NXX codes should only occur when it is clear that an NPA will run out of NXX codes before timely implementation of a relief plan.[214] We emphasize that state commissions may not use rationing as a substitute for area code relief.[215] In prior orders, the Commission and Bureau have also declined to grant state commissions authority to adopt NXX code rationing procedures prior to adoption of an area code relief plan, except in the most extreme circumstances.[216] Because of the difficulty in getting needed numbering resources experienced by some carriers in areas subject to rationing, we are not persuaded that Commission precedent should be changed at this time. Thus, we decline to alter this aspect of the *Pennsylvania Numbering Order*.

79. We believe that the authority the Commission and the Bureau delegated to several state commissions to implement other relief measures will provide them with the tools they need to address the inefficiencies of numbering use in their states. For example, the Commission and the Bureau have granted several state commissions the authority to maintain pre-NPA relief NXX code rationing measures for six months following implementation of area code relief.[217] The

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[212] California Commission Pennsylvania Numbering Order Petition at 1-2; Connecticut Commission Pennsylvania Numbering Order Petition at 3-5; Maine Commission Pennsylvania Numbering Order Petition at 1; Massachusetts Commission Pennsylvania Numbering Order Petition at 7-8; New Hampshire Commission Pennsylvania Numbering Order Petition at 1-2; Pennsylvania Commission Pennsylvania Numbering Order Petition at 2.

[213] *See infra* para. 61.

[214] *Pennsylvania Numbering Order*, 13 FCC Rcd at 19025, para. 24.

[215] *Id.* at 19027, para. 26.

[216] *See, e.g., Florida Delegation Order*, 14 FCC Rcd at 17522, para. 39; *Massachusetts Delegation Order*, 14 FCC Rcd at 17464, para. 41; *New York Delegation Order*, 14 FCC Rcd at 17481-82, paras. 32, 34; *but see California Delegation* Order, 14 FCC Rcd at 17503-04, para 38, 40 (noting that unique circumstances exist in California which require public participation in the area code relief planning process at least 30 months prior to the submission of a recommended relief plan to the California Commission).

[217] *See, e.g., Florida Delegation Order*, 14 FCC Rcd at 17517-18, paras. 26, 28; *Massachusetts Delegation Order*, 14 FCC Rcd at 17458-59, para. 27; *Wisconsin Delegation Order*, 15 FCC Rcd at 1310-11, paras. 30, 31. Where area code relief takes the form of an area code split, the Commission granted several states the authority to direct that whatever rationing plan was in place prior to area code relief continue to be applied in both the newly implemented area code and the relieved area code for a period of up to six months following the date of implementation of area code relief. Correspondingly, if the area code relief is in the form of an all-services overlay, the states may direct that the pre-existing rationing plan be applied to both the overlay code and the relieved code for a period of six months following the date of implementation of area code relief. Whether the (continued....)

Commission and the Bureau reasoned that a continuation of rationing after area code relief neither contradicts the *Pennsylvania Numbering Order*,[218] as the requisite area code relief has been implemented, nor has the potential—in contrast to rationing prior to area code relief—to forestall area code relief indefinitely. In addition, state commissions were also granted the authority to hear and address claims for an extraordinary need for numbering resources in an NPA subject to a rationing plan.[219] This grant of authority empowers the state commissions to ensure that carriers in dire need of numbering resources can obtain the numbering resources they need to continue to provide service to their prospective customers, if the rationing plan will not ensure that the carriers will have adequate and timely access to numbering resources.

80. The California Commission also requests reconsideration of the *Pennsylvania Numbering Order* to the extent that it restricts state commissions from initiating mandatory number pooling.[220] With the release of the *First Report and Order*, we adopted a nationwide system for allocating numbers in blocks of one thousand, rather than ten thousand, wherever possible, and announced our intention to establish a plan for national rollout of thousands-block number pooling. The Commission and the Bureau have also granted several state commissions the authority to initiate thousands-block number pooling trials.[221] In fact, the California Commission was delegated authority to initiate thousands-block number pooling trials in California on September 15, 1999. Accordingly, we dismiss as moot this aspect of the California Commission's petition for reconsideration.

VI. OTHER NUMBERING RESOURCE OPTIMIZATION MEASURES

A. Audits

81. *Background.* In the *Notice*, we opined that auditing is the only comprehensive method for verifying the validity and accuracy of utilization data submitted by users of numbering resources.[222] We stated that audits could also be used to verify compliance with non-quantitative

(Continued from previous page)
rationing plan in place prior to relief was an industry consensus plan, or whether it was a state commission-ordered plan, only those terms in place prior to area code relief may remain in place following area code relief. The state commissions may order a continuation of rationing for up to six months, but neither the state commissions, nor the telecommunications industry participants in a consensus plan, may alter the terms of the rationing plan. We found this limitation appropriate to prevent a potentially contentious re-opening of the terms of a previously settled code rationing plan, resulting in uncertainty and a drain on resources.

[218] The *Pennsylvania Numbering Order* stated that state commission implementation of number conservation measures could not be used "as substitutes for area code relief or to avoid making difficult and potentially unpopular decisions on area code relief." *Pennsylvania Numbering Order*, 13 FCC Rcd at 19027, para. 26.

[219] *See, e.g., California Delegation Order*, 14 FCC Rcd at 17500-501, para. 32; *Massachusetts Delegation Order*, 14 FCC Rcd at 17462-463, para. 37.

[220] California Commission Pennsylvania Numbering Order Petition at 2.

[221] *See, e.g., Numbering Resource Optimization*, Order, CC Docket No. 96-98, 99-200, DA 00-1616 (rel. July 20, 2000).

[222] *Notice*, 14 FCC Rcd at 10358-9, para. 83.

rules or guidelines.[223] We further stated that audit requirements may independently serve as a deterrent to carrier noncompliance or self-serving behavior, such as hoarding of numbers.[224] Consequently, we proposed that any data collection and need verification measures proposed should be supplemented with a comprehensive audit program that verifies carrier compliance with federal numbering rules and industry numbering guidelines.[225]

82. *Discussion.* We adopt our proposal to supplement the need verification measures and data collection requirements, adopted in the *First Report and Order*, with a comprehensive audit program to verify carrier compliance with federal rules and orders and industry guidelines. In addressing need verification measures in the *First Report and Order*, we adopted a more verifiable, needs-based approach to allocating initial and growth numbering resources predicated on proof that carriers need numbering resources when, where, and in the quantity requested. We find that an audit program is an important adjunct to these measures.

83. A comprehensive auditing program can serve many useful purposes. First, it can provide a level of confidence in the accuracy of data reported by carriers. Our ability to monitor numbering resource use and accurately predict NPA and NANP exhaust is dependent on the quality of the data submitted by the carriers. Auditing provides a way of verifying the accuracy of these data. Auditing also helps ensure that carriers are complying with our rules promoting efficient number usage because it serves as a deterrent. The mere possibility of an audit, we believe, will prevent behavior that is contrary to numbering resource optimization goals, such as stockpiling of unneeded resources. Finally, auditing will allow us to identify inefficiencies in the manner in which carriers use numbers, such as excessive use of certain categories of numbers such as administrative, aging, or intermediate numbers.

1. Types of Audits

84. *Background.* In the *Notice*, we identified the three commonly used types of audits: "for cause" audits, regularly scheduled audits, and random audits.[226] "For cause" audits are conducted if there is a reason to believe that the information a carrier provided is inaccurate or misleading, or that a carrier has violated the Commission's rules or orders or applicable industry guidelines.[227] Regularly scheduled audits, for our purposes, would be conducted on a fixed schedule for all entities that obtain numbering resources.[228] Random audits are unscheduled audits of users of numbering resources selected at random.[229] We sought comment on whether and, if so, how, all three types of audits should be employed as part of a comprehensive audit

223 *Id.*

224 *Id.*

225 *Id.*

226 *Id.* at 10359, para. 84.

227 *Id.* at 10359, para. 85.

228 *Id.* at 10359, para. 86.

229 *Id.* at 10360, para. 87.

program to monitor carrier compliance with number allocation and administration rules and guidelines.[230] We also sought comment on the comparative costs and benefits associated with performing each type of audit.[231]

85. *Discussion.* After careful consideration, we conclude that our comprehensive audit program will consist of "for cause" and random audits. Given that we have strengthened our rules concerning need verification measures and data collection, we believe that we can better accomplish our goals with the use of these two types of audits. We agree with Omnipoint that regularly scheduled audits would be "exorbitantly expensive" to the industry, which includes thousands of code-holding carriers, or valueless due to the extended period of time between audits.[232]

86. We observe that there is broad agreement among commenters that "for cause" audits should be included in our comprehensive audit program. "For cause" audits may be initiated based on information drawn from a variety of sources. For example, "for cause" audits could be triggered by the Bureau, the NANPA or the Pooling Administrator, or a state commission that has reason to believe that a service provider may have violated the Commission's rules or orders, or applicable industry guidelines. "For cause" audits could also be triggered by inconsistencies or anomalies, including inaccurate or misleading data, identified by the NANPA or the Pooling Administrator in reported mandatory utilization and forecast data,[233] or by the Bureau or a state commission conducting its own review of submitted utilization and forecast data.[234]

87. To request that a "for cause" audit be conducted for any of the above stated reasons, the NANPA, the Pooling Administrator or a state commission must make a written request to the entity designated by the Commission to conduct audits (the Auditor). Such request shall state the reason for which a "for cause" audit is being requested and shall include documentation of the alleged anomaly, inconsistency, or violation of the Commission rules or orders or applicable industry guidelines. The Auditor shall determine from the application whether a "for cause" audit is warranted. Also, the Auditor may, as an additional deterrent, and at its own discretion, conduct a "for cause" audit and follow-up audits of service providers that previously were subject to "for cause" audits.[235]

88. Because "for cause" audits are conducted only if there are specific allegations of non-compliant or inappropriate conduct on the part of a carrier, we conclude that we should also

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230 *Id.* at 10359, para. 84.

231 *Id.*

232 *See* Omnipoint Reply Comments at 12-13.

233 The NANPA is required to renew submitted utilization and forecast data and to identify inconsistencies and anomalies in such.

234 *Cf.* CinBell Comments 8 (recommending that anomalies in information reported to NANPA trigger "for cause" audits).

235 *See* AT&T Comments at 22; North Carolina Commission Comments at 7; Texas Commission Comments at 14; VoiceStream Comments at 17.

monitor carrier compliance with our rules and orders and applicable industry guidelines through the use of random audits. We decline to employ only "for cause" audits in our program, as suggested by some commenters,[236] because we believe it would weaken our ability to effectively monitor compliance with all rules, orders, and applicable guidelines. In conjunction with the use of "for cause" audits, we find that random audits will provide our comprehensive audit program with more flexibility to accomplish our auditing goals. Since random audits are not necessarily triggered by allegations of non-compliant or inappropriate conduct, they can serve as a strong deterrent to any carrier who might misuse numbering resources.[237] We agree with the Texas Commission that random audits are particularly important to ensure continuous compliance with applicable rules and regulations.[238] We disagree with Level 3 that random audits will expose a company to the arbitrary application of a costly process.[239] All carriers should be prepared at any time to show their compliance with our requirements; the use of random audits will spare the vast majority of carriers from having to do so while providing a similar deterrent effect.

2. Audit Responsibility

89. *Background.* We identified the NANPA, the Commission, and the state commissions in the *Notice* as possible candidates to conduct numbering resource audits.[240] We sought comment on whether we should direct the NANC to select an entity to audit carrier number utilization and forecast data using a competitive bidding process subject to our approval.[241] We acknowledged that the NANPA may not be the best choice to audit code holders because the NANPA, in its capacity as central office code administrator, would be subject to periodic audits for related issues.[242] We also sought comment on who should conduct audits, and on whether audit responsibility should be apportioned among these or other neutral third parties.[243]

90. *Discussion.* Although numerous commenters, including some state commissions, supported selecting NANPA as the auditor for our program, we decline to do so. We recognize, as do some commenters, that the selection of the NANPA as the auditor could pose a potential conflict of interest since the NANPA is subject to similar audits for numbering compliance.[244] Instead, the Commission will ensure, by using auditors in the Audits Branch of the Accounting

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236 *See* Connect Reply Comments at 6-7; Nextlink Reply Comments at 25; RCN Comments at 7; Time Warner Comments at 21.

237 *See* SBC Comments at 56.

238 *See* Texas Commission Comments at 14.

239 *See* Level 3 Comments at 7.

240 *Notice*, 14 FCC Rcd at 10360, para. 88.

241 *Id.*

242 *Id.*

243 *Id.*

244 SBC Comments at 57-58.

Safeguards Division in the Common Carrier Bureau or other designated agents, that "for cause" and random audits are properly and promptly conducted. We disagree with AirTouch that federal regulatory agencies do not have the necessary resources to conduct audits of the breadth that is needed.[245] Since auditors are already employed by the Commission, we expect that only minimal costs will be incurred in implementing the auditing program. In addition, the Commission may designate agents under section 251(e)(1) to conduct audits or otherwise assist in the comprehensive numbering audit program.

91. Many of the state commissions responding to the *Notice* proposed that we delegate authority to the states to conduct their own audits in addition to the audits prescribed herein.[246] We decline to delegate authority to the states to conduct the audits prescribed herein at the present time. We are concerned that some states may not, as indicated by the California Commission, have the resources to properly conduct the audits that we require.[247] In addition, we are concerned that states may employ different standards in performing the audits. Many carriers operate in multiple states, and one of our goals in adopting a national auditing framework is to prevent carriers from having to comply with differing demands in different states. In declining to delegate authority to states to perform audits under the national program, we do not intend to preempt any state authority to perform audits under state law.

92. Nevertheless, we do believe that a certain level of state participation in our auditing program is desirable. Thus, we have granted states the ability to request "for cause" audits, as noted above.[248] In the attached *Further Notice*, we seek comment on whether and under what circumstances state commissions should be given the independent authority to conduct "for cause" and "random" audits either in lieu of, or in addition to, the national audit program established herein.[249] In addition, we will permit states that have the resources to do so to participate on Commission audit teams if they wish to do so.[250] We note that the state commissions, through resolutions adopted by the National Association of Regulatory Utility

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245 AirTouch Comments at 22.

246 *See, e.g.*, Connecticut Commission Comments at 13; North Carolina Commission Comments at 7.

247 California Commission Comments at 16.

248 *See supra* section VI.A.1.

249 *See infra* section VII.G.

250 *See* 47 C.F.R. § 0.291(b). To improve operating and administrative efficiency, the Commission delegated authority to the Common Carrier Bureau to coordinate joint audits with state commissions when: (i) there is a shared policy interest, and (ii) the states have procedures for protecting confidential information equivalent to those of the Commission. To the extent that the Commission imposes a higher standard of confidentiality than state law, the state is required to adhere to the higher Federal standard. *Amendment of Parts 0, 1, and 64 of the Commission's Rules with Respect to Delegation of Authority to the Chief, Common Carrier Bureau*, Report and Order, 5 FCC Rcd 4601 (1990); *Delegation of Authority to the Chief, Common Carrier Bureau*, Memorandum Opinion and Order, 50 Fed. Reg. 18487-03 (1985), *on reconsideration*, 104 FCC2d. 733 (1986).

Commissioners (NARUC), have encouraged such joint audit efforts.[251]

93. Although not selected to perform the audits in our comprehensive program, the NANPA, in its capacity as code administrator, will continue to have audit-type responsibilities. Specifically, it must examine the data it receives from service providers for anomalies and inconsistencies. This audit-type responsibility is distinct from the audit program that we are establishing. Thus, our actions in establishing an audit program do not relieve NANPA of its responsibility to examine and verify data submitted by service providers. To the contrary, we require NANPA to continue to discharge these responsibilities, which will alert it to any information that may lead to the initiation of a "for cause" audit by the Auditor.

3. Audited Information and Procedures

94. *Background.* We sought comment on the process by which specific auditing procedures should be established, as well as on the development of statistical and analytical approaches that would be required to evaluate the quality and validity of reported data.[252] We asked parties to comment on how we may structure an audit process that is flexible enough to focus on new problems or issues as they arise.[253] We noted that the NANC and the INC have been working to develop a comprehensive audit process, and we directed the NANC to provide a progress report regarding this work effort to the Common Carrier Bureau on or before the deadline for initial comments in this proceeding.[254] We also sought comment on the best method for soliciting the input of state commissions, recognizing that state commissions should have a major role in the development of this framework and procedures.[255]

95. *Discussion.* On July 18, 2000, the NANC submitted a progress report to the Common Carrier Bureau regarding its work with the INC in developing a comprehensive audit process.[256] Although we do not adopt the report in its entirety, we do adopt several of its proposals. In this regard, we delegate authority to the Chief of the Common Carrier Bureau to develop a comprehensive audit plan including detailed analytical audit procedures for both "for cause" audits and random audits. The plan should identify compliance issues based on risk assessment and should include a schedule of audits that focuses audit resources on the critical issues pertaining to numbering resource optimization.

96. We also adopt the NANC's proposal that the Auditor provide standard audit reports. Specifically, we require draft audit reports, no later than 30 days after the completion of

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[251] *See, e.g.*, Resolution Urging Pro-Competitive, Pro-Consumer Federal-State Joint Audits, Sponsored by the NARUC Committees on Finance & Technology and Communications at the NARUC Annual Convention and Regulatory Symposium held in July 2000 in Los Angeles, California (July 26, 2000).

[252] *Notice*, 14 FCC Rcd at 10361, para. 89.

[253] *Id.*

[254] *Id.* at 10361, para. 90.

[255] *Id.*

[256] *See* Number Administration Auditor Technical Requirements, dated July 18, 2000.

an audit, that contain a summary of the auditor's results. Based on the final audit report, to the extent the Common Carrier Bureau finds evidence of potential violations, it shall refer the matter to the Enforcement Bureau for possible enforcement action, which may include, for example, monetary forfeitures, revocation of interstate operating authority and cease and desist orders. In the *Further Notice* attached to this *Second Report and Order*, we seek comment on whether and how numbering resources should be denied as an additional enforcement mechanism.

97. *Auditing Costs.* Based on our assessment in the *Notice* that auditing and other administrative solutions for allocating and administering numbering resources appear to involve changes in the manner in which these resources are overseen and managed, we tentatively concluded that the costs for our proposed solutions should be allocated and recovered through the existing NBANC fund.[257] In addition, we tentatively concluded that section 251(e)(2)[258] requires that the costs of the administrative solutions be borne by all telecommunications carriers on a competitively neutral basis and that including the costs in the NBANC fund would result in the allocation and recovery of costs from all telecommunications carriers on such a basis.[259]

98. We conclude that the costs associated with our comprehensive auditing program are numbering administration costs and, as such, they should be borne by all telecommunications carriers on a competitively neutral basis. Although we intend that the audits will be conducted by auditors in the Bureau's Audits Branch, [260] to the extent that designated agents other than Commission staff are used to perform the work related to our comprehensive audit program, we conclude that the costs associated with such work performed by designated agents should be allocated and paid for through the NBANC fund.[261]

99. Finally, we decline to provide a specific cost recovery mechanism for carrier specific auditing costs, including those associated with providing requested documentation or information needed by the Auditor to conduct the audit. We believe that these costs will be minimal since the carrier's primary responsibility when being audited is to provide the Auditor with requested information. Moreover, we believe that these costs will not significantly affect a carrier's ability to be competitive in the marketplace.

B. Mandatory Nationwide Ten-Digit Dialing

100. *Background.* Currently, the standard dialing pattern is seven-digit dialing within an NPA, and ten-digit dialing (or one plus ten digit) between NPAs. Ten-digit dialing is required in both the relieved and the new NPA when all-services overlays are implemented as area code

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257 *Notice*, 14 FCC Rcd at 10367, para. 103.

258 47 U.S.C. § 251(e)(2).

259 *Notice*, 14 FCC Rcd at 10368, para. 104.

260 Although the costs incurred by the Bureau's Audits Branch with respect to the auditing program will not be allocated and paid for through the NBANC fund, we note that such costs generally will be allocated and recovered through annual regulatory fees and thus still will be borne by carriers on a competitively neutral basis.

261 According to the NBANC Status Report and Fund Projection dated October 10, 2000, the funds set aside for auditing costs for the current fund year totaled $350,000.

relief. In the *Notice*, we sought comment on whether we should adopt nationwide ten-digit dialing, (*i.e.*, the dialing of ten digits for all calls, regardless of whether they are inter-NPA, intra-NPA, or toll) or whether we should encourage states to implement ten-digit dialing.[262] We recognized that mandatory ten-digit dialing increases the supply of numbers available for use, through the reclamation of protected codes,[263] and potentially through permitting the use of either 0 or 1 as the first digit of an NXX code (the fourth, or "D digit, of a ten-digit telephone number).[264] We also sought comment on any technical problems and costs associated with ten-digit dialing.[265]

101. *Discussion.* We decline to adopt nationwide mandatory ten-digit dialing at the present time as a numbering resource optimization measure. As discussed above, we also continue to require that, where all-services overlays are used, ten-digit dialing is required not only between the original NPA and the overlay NPA, but also within each NPA, to prevent anti-competitive impacts on new entrants that may have few or no numbers in the original NPA.[266]

102. Several commenting parties support mandatory nationwide ten-digit dialing.[267] Commenters support the conversion to ten-digit dialing as a numbering resource optimization measure, particularly in densely populated areas with NPAs that are projected to exhaust shortly.[268] Airtouch, for example, contends that mandatory ten-digit dialing will eliminate the need for protected NXX codes, thereby significantly increasing the number of NXX codes that can be assigned in an area, and will permit expanded use of the D digit.[269] Other commenters, however, explicitly reject the adoption of this measure.[270] Several commenting parties state that mandatory ten-digit dialing would allow future area code relief projects, particularly all-services

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262 *Notice*, 14 FCC Rcd at 10378, para. 126.

263 In fact, to preserve seven-digit dialing for inter-NPA calls within a community of interest, many states have authorized the use of "protected codes." Where a community of interest contains portions of two or more NPAs, a particular NXX code that has been assigned for use within one of the NPAs is "protected," or made unassigable in the adjacent NPA. This permits every switch in the local calling area to route calls based on the NXX code, rather than the NPA-NXX, even across NPA boundaries. In addition, other protected codes are reserved for special services, such as N11 codes. Thus, protected codes are not available for number assignments to end users. NANC Report at §§ 10.5.2 and 10.5.3.1.

264 *Notice*, 14 FCC Rcd at 10376, para. 123.

265 *Id.* at 10378, para. 125.

266 *See* 47 C.F.R. § 52.19 (c)(3)(ii).

267 GTE Comments at 34; OPASTCO Comments at 6; PrimeCo Comments at 10; USTA Comments at 7; U S West Comments at 16.

268 *See, e.g.*, Small Business Alliance Comments at 9.

269 AirTouch Comments at 9.

270 *See, e.g.*, California Commission Comments at 24 (stating that the determination of whether to impose a dialing pattern which includes both the area code and customer's seven-digit number is best left to the states); Maine Commission Comments at 19; North Carolina Commission Comments at 11-12.

overlays, to be less disruptive to consumers,[271] and might foster new and different uses for NPA overlays.

103. It appears, however, that at the present time, the numbering resource optimization benefits of ten-digit dialing are limited.[272] Protected codes, which enable seven-digit dialing across area code boundaries, may be reclaimed without regard to whether mandatory nationwide ten-digit dialing is implemented. In fact, the NANC recommends that protected codes should be eliminated in all instances.[273] Also, the record in this proceeding reveals that expansion of the D digit to optimize the effectiveness of ten-digit dialing raises significant implementation concerns.[274] SBC, for example, states that D digit expansion would require substantial time and effort, as well as modification of all switching systems and networks to allow the "unblocked" "0" or "1" D digit to be recognized as the fourth digit of a ten-digit number.[275] Perhaps an advantage that could be realized at this time from implementing mandatory ten-digit dialing is that it might liberate state commissions from having to face dialing pattern questions as they make area code relief decisions, perhaps allowing them to focus more sharply on numbering resource optimization concerns. We have concluded, however, that we should leave area code relief decisionmaking with the states at the present time.[276]

104. In addition, the record in this proceeding indicates that a nationwide transition to ten-digit dialing would require some technical modifications to switches, operations support systems, and customer premises equipment. The NANC Report states that, although the industry cost of implementing ten-digit dialing will vary according to each geographic area and service provider, some carriers could experience substantial costs associated with modifications to switch translations and OSS, directory publishing, changes to announcement systems, and customer education. Implementation of ten-digit dialing will also require upgrades to the Public Safety Answering Point (PSAP) systems used to respond to 911 calls. More importantly, mandatory ten-digit dialing does present some disruptive effects, particularly for consumers. Consumers often object to the inconvenience and confusion associated with having to remember and dial three extra digits.[277] For the foregoing reasons, we decline to require mandatory nationwide ten-digit dialing at the present time.

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271 *See* CinBell Telephone Comments at 14; Nextel Comments at 23; PrimeCo Comments at 10; VoiceStream Comments at 25-26.

272 *See, e.g.*, Texas Office of Public Util. Counsel and NASUCA Comments at 47.

273 *See* NPA Code Relief Planning and Notification Guidelines, INC 97-0404-016, § 5.0, November 2000, *available at* <www.atis.org>.

274 AT&T Comments at 37; SBC Comments at 106-7; USTA Comments at 7.

275 SBC Comments at 100.

276 *See supra* sections V.C-D.

277 NANC Report at § 10.8.2.

C. Expansion of the D Digit

105. *Background.* In the *Notice*, we recognized that expansion of the fourth digit of a ten-digit telephone number, the so-called "D" digit (the "N" of an NXX or central office code),[278] would increase the quantity of NXXs available within an NPA by approximately 25% if accompanied by the implementation of ten-digit dialing.[279] Accordingly, we sought comment on the costs and benefits of expanding the D digit, and on whether we should mandate the adoption of this measure at the national level to ensure its effectiveness or on a statewide or NPA-wide basis.[280] Furthermore, we sought comment on whether states should independently implement the expansion of the D digit as a numbering optimization measure.[281]

106. *Discussion.* We decline to adopt nationwide expansion of the D digit to include 0 or 1, or to grant state commissions the authority to implement the expansion of the D digit as a numbering resource optimization measure at the present time. We agree with commenting parties that D digit expansion raises some implementation concerns.[282] The record in this proceeding reveals that implementation of this measure will require some technical modifications to switches, operations support systems, and customer premises equipment.[283] For example, since service providers may be using NXXs that begin with "0" or "1" for intra-network use, they will need to develop an alternate technical solution.[284] In addition, several commenting parties contend that D digit expansion must be done simultaneously by all participants in the NANP because otherwise calls can not be completed to exchanges where carriers continue to retain the D digit for internal use.[285] The INC also states that this modification is expected to be a multi-year process for carriers to implement, and therefore, expansion of the D digit would need to be implemented as

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278 NANC Report at § 10.1; *see also* AirTouch Comments at 9; Bell Atlantic Comments at 19-20. NXX codes that begin with "0" and "1" are restricted by industry agreement and are used for switches to access operators, toll dialing and/or inter-NPA calling. NANC Report at § 10.5.2.2. In order for these restricted NXX codes to be available for assignment, a uniform ten-digit dialing pattern must be implemented. *Id.*

279 NANC Report at § 10.5.2.2. Release of the D digit removes the current restriction on the fourth digit in the numbering sequence allowing the digit to be a 0 or 1. Thus, NXXs in the form 000-199 could be assigned which theoretically provides a 25% increase in the current NANP.

280 *Notice*, 14 FCC Rcd at 10380, para. 129.

281 *Id.*

282 *See, e.g.*, USTA Comments at 7.

283 *See* Ameritech Comments at 37 (stating that D digit expansion involves serious adverse impacts and costly network and operation support system (OSS) modifications); AT&T Comments at 37; BellSouth Comments at 18 (noting that most switches in the public switched telephone network (PSTN) cannot route such numbers and there is no OSS ready for such a fundamental change); Citizens Utility Bd., et al. Comments at 44; SBC Comments at 106-07; *see also* NANC Report at § 10.6.1.3.

284 *See* Nortel Networks October 4, 2000 ex *parte*; Telcordia October 24, 2000 *ex parte*; *see also* NANC Report at § 10.6.1.3.

285 NANC Report at § 10.7.2.2.

the final phase of the measures associated with ten-digit dialing.[286] For the foregoing reasons, we decline at this time to adopt nationwide expansion of the D digit to include 0 or 1, or grant state commissions the authority to implement the expansion of the D digit as a numbering resource optimization measure at the present time.[287] We recognize that the current use of 0 or 1 as the D digit is extensive and therefore steps must be taken to identify and eliminate all such uses prior to any release of the D digit. We therefore direct carriers to begin identifying and eliminating specialized uses of 0 or 1 as the D digit in anticipation of the eventual expansion of the D digit.

D. Clarification of Definitions

1. Parent OCN

107. In the *First Report and Order*, we mandated that all carriers that receive numbering resources from the NANPA, or that receive numbering resources from a Pooling Administrator, report forecast and utilization data to the NANPA.[288] We also required carriers that receive numbering resources from another carrier to report forecast and utilization data for such numbers in their inventories.[289]

108. We required the NANPA to develop a reporting form for both utilization and forecast data.[290] To ensure that the NANPA has a means for associating each carrier's reported data with carrier identification information, we required that the reporting forms for utilization and forecast information include company name, company headquarters address, OCN, parent company OCN, and the primary type of business in which the numbers are being used.[291] We stated that carriers should report their utilization and forecast information by separate legal entity, identifying each entity by its OCN.[292] We also directed the NANPA to withhold numbering resources from any United States carrier that fails to provide its utilization and forecast information as mandated in the *First Report and Order* until such information has been provided.[293]

109. We directed reporting carriers to identify a parent OCN to enable us to determine the relationships among them and to monitor number usage for corporations and groups of

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286 NANC Report at §§ 10.2, 10.3, and 10.7.2.1; *see also* AirTouch Comments at 9 (supporting expansion of the D digit through federally required ten-digit dialing at the national level).

287 *See, e.g.*, Cox Comments at 20-21.

288 *First Report and Order*, 15 FCC Rcd at 7594, para. 40.

289 *Id.*

290 *Id.* at 7598, para. 52.

291 *Id.*

292 *Id.* at 7594, para. 41.

293 *Id.* at 7609-10, para. 84. We also noted that, if a carrier failed to provide the necessary reports, the NANPA must notify the carrier in writing allowing ten days for the carrier either to provide the report or show that it already has done so. *Id.*

companies as well as individual carrier entities.[294] We are aware that, because of varying and complex corporate structures, reporting carriers may have more than one entity that could be deemed its "parent." For example, if a reporting carrier is a subsidiary of company A, which is in turn a subsidiary of company B, both companies A and B could be deemed the parent of the reporting carrier. We therefore clarify that the reporting carrier should identify as its parent, and provide the OCN for, the highest related legal entity located within the state for which it is reporting data. Thus, in the example above, the appropriate parent would be company B, provided that company B is located within the relevant state. In the attached *Second Further Notice*, we seek comment on whether additional data regarding corporate relationships should be reported with carriers' mandatory number utilization and forecast reports, and whether or how that information should be used to ensure the widest possible compliance with our number usage monitoring and optimization efforts, without unduly burdening reporting entities.[295]

2. Classification of Numbers Used for Intermittent or Cyclical Purposes

110. Numbers used for intermittent purposes are numbers designated for use by a particular customer that may be "working" in the Public Switched Telephone Network (PSTN) periodically, but that remain designated for the customer's use even if they are not "working" at other times. These may include numbers contained in blocks assigned to Centrex or Private Branch Exchange (PBX) users, or to large corporations that require an inventory of spare numbers to accommodate internal usage on short notice. These customers typically use all or a portion of a block of numbers at any given time. Numbers used for cyclical purposes are similarly designated numbers that are typically "working" for regular intervals of time. Customers with numbers used for cyclical purposes typically wish to retain the same number even when the numbers are not "working." A customer's summer home telephone number that is in service for six months out of the year, or a college student's telephone number that is in service only for the school year are examples of numbers used for cyclical purposes.

111. To the extent that these numbers are "working" on the mandatory reporting date, they should be reported as *assigned numbers*.[296] It is less clear how these numbers must be reported when they are not "working." We note that many commenters assumed that numbers used for intermittent or cyclical purposes must be reported as *reserved numbers* during the period in which they are not "working," and that this assumption has prompted several parties to seek reconsideration of our decision to limit the reservation period to 45 days. In the *First Report and Order*, we defined *reserved numbers* as "numbers held by service providers at the request of specific end use customers for their future use."[297] We also determined that after the 45-day reservation period, carriers have to treat these previously "reserved" numbers as "available." Our purpose in establishing *reserved numbers* and limiting the reservation period to 45 days was to

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[294] *See infra* section VII.C for discussion of whether carriers should be held accountable when related carriers fail to report numbering utilization and forcast information.

[295] *See infra* paras. 149-150.

[296] *See First Report and Order*, 15 FCC Rcd at 7585, para. 16.

[297] *Id.* at 7587-88, paras. 22-23.

allow carriers the ability to set aside numbers for specific customers' use in the near term. We did not intend, however, to prevent carriers from maintaining the same telephone number or block of numbers for customers that activate service to particular lines on an intermittent or cyclical basis.

112. We affirm that numbers used for intermittent or cyclical purposes that are not "working" on the mandatory reporting date should be reported as *reserved numbers*. We nevertheless agree that customers should not be subject to losing these numbers when they are turned off for short periods of time. On the other hand, we are concerned that some of these numbers that remain unused indefinitely could be used to provide service to other customers. We therefore address concerns that the 45-day reservation period is too short to accommodate the needs of end user customers to retain numbers used for intermittent or cyclical purposes in the next section. Specifically, in the next section, we increase the maximum reservation period to 180 days. We believe that this approach strikes an appropriate balance between carriers' legitimate need to provide numbers for intermittent or cyclical uses to their customers, and our responsibility to ensure that scarce numbering resources do not lie fallow for unlimited periods of time. We also seek comment in the attached *Second Further Notice* on whether we should allow carriers to extend the reservation period for numbering resources, for a fee, which could further alleviate the concerns raised by carriers regarding numbers used for intermittent or cyclical purposes.

E. Reconsideration of Reserved Number Period

113. In the *First Report and Order*, we concluded that *reserved numbers*, defined as numbers held by service providers at the request of specific end use customers for their future use, may be held in reserve status for a maximum of 45 days.[298] In petitions for reconsideration[299] of the *First Report and Order*, as well as numerous *ex partes*,[300] several parties have asserted that the 45-day reservation period is a major departure from current business practices and should be increased to enable them to meet specific customer needs.

114. We conclude that the maximum period for reserving numbers should be increased to 180 days. In deciding how much additional time to allow, we considered suggestions that the reservation period be increased to as much as 12 months.[301] We are persuaded by commenters and petitioners that 45 days does not adequately address the needs of many customers who need to know their telephone numbers for a period of time before telephone service is activated,[302] but

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298 *Id.*

299 *See, e.g.,* AT&T Petition for Reconsideration; SBC Petition for Reconsideration and Clarification; Qwest Petition for Reconsideration.

300 *See, e.g.,* Letter from Don Melton, Director, State of Arkansas Department of Information Services, to FCC, dated July 21, 2000; Letter from Kathleen B. Levitz, BellSouth, to Magalie Roman Salas, FCC, dated August 25, 2000; Letter from Glen Whitmer, Assistant Director, Computing and Communicating Services Office, University of Illinois, Urbana-Champaign, to FCC, dated August 14, 2000.

301 *See* AT&T Petition for Reconsideration at 8; BellSouth Petition for Reconsideration and Clarification at 8. *See also* ALTS Petition for Reconsideration and Classification; Sprint Petition for Reconsideration; USTA Petition for Clarification and Reconsideration.

302 *See, e.g.,* Bell South Petition for Reconsideration and Clarification at 5-11.

remain cautious about extending the period too much because of the potential for accelerating the exhaust of some NPAs.[303] Given the need for customers, especially business customers, to plan for implementation and/or expansion of telephone service, print stationery and business cards prior to commencing business, and have their telephone numbers printed in telephone directories, we find it reasonable to extend the reservation period to 180 days. This provision shall be effective upon release of this *Second Report and Order*.

115. We also note that we are considering a proposal from the NANC on the issue of charging fees to extend the number reservation period.[304] In the attached *Second Further Notice*, we seek comment on the NANC's proposal to allow unlimited reservations on a month-to-month basis in exchange for a fee.[305] If we choose to mandate a reservation extension fee in the future, we will reconsider whether the 180-day period remains appropriate.

F. Clarification of State Commissions' Access to Data

1. State Commissions' Access to Mandatory Reporting Data

116. In the *First Report and Order*, we granted all state commissions access to the semi-annually reported mandatory forecast and utilization data, subject to appropriate confidentiality protections.[306] We recognized that, with access to the data, states would be better able to meet their obligations regarding the implementation of area code relief and to act on their delegations of additional numbering authority. We declined, however, to delegate authority to the state commissions to impose additional regularly scheduled reporting requirements on carriers because of our belief that such authority would undermine the purpose of establishing regularly scheduled, uniform federal reporting requirements.[307]

117. We granted state commissions access to mandatorily reported forecast and utilization data to eliminate the need for them to require carriers to report separately and duplicatively, utilization and forecast data that they are already reporting to the NANPA on a regular basis. In doing so, we considered the need for states to have this information as well as the considerable burden such requests could place on carriers. We also considered the burden on the NANPA in responding to excessive individual state requests for information. We recognize, however, that some state commissions may desire to have access to carrier-specific data on file with the NANPA more frequently or in different formats. For example, states might wish to receive data at frequent intervals, per individual or class of carrier, per geographic area, or they could request all data collected on all reporting carriers within their state.

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[303] Allowing numbers to remain in the reserved category indefinitely decreases the amount of available numbering resources, which in turn accelerates the need for area code relief.

[304] *See* Letter from John Hoffman, Chairman, North American Numbering Council, to Dorothy Attwood, Chief, Common Carrier Bureau, dated September 20, 2000.

[305] *See infra* para. 152.

[306] *First Report and Order*, 15 FCC Rcd at 7606, para. 75.

[307] *Id.* at 7606, para. 76.

118. We clarify that our grant of access to mandatorily reported forecast and utilization data includes all such data, as submitted semi-annually by reporting carriers. The NANPA shall provide mandatorily reported forecast and utilization data to any requesting state twice per year, consistent with its collection of such data twice per year.[308] Commencing with the second collection of mandatorily reported data, currently scheduled for February 1, 2001, a state may request a single report containing disaggregated data reported by carriers operating in its state beginning 30 days after each deadline for collection of the data, up to the next deadline for reporting. Because state commissions have emphasized the need to receive the data in a format that would enable them readily to perform their own data analyses, we require that the NANPA provide the data via secured electronic transfer, which may include e-mail, or on a computer disk. NANPA shall, in the alternative upon request from a state commission, provide the data in paper copy form without any cost to the state.

119. In the event state commissions wish to receive the data in different formats involving processing or culling of the data, such as customized reports that provide data by carrier or class of carrier, geographic area, or other categories, the NANPA may create and provide such customized reports to requesting states as an enterprise service.[309] We emphasize, however, that the NANPA may only charge a fee for enterprise services that is reasonable; that is, based on the cost of processing and compiling the data from its existing database, preparing the customized report, and providing it to the state commission. Once the NANPA's proposal for providing customized reports as an enterprise service is approved,[310] state commissions are free to negotiate with the NANPA a reasonable price for the customized reports. We also emphasize that states are free to take the data that the NANPA must provide to them and process the data themselves, or have it processed by another entity that is able to do the work more cost-effectively than the NANPA while maintaining the confidentiality of the data.[311] The confidentiality protections specified in the *First Report and Order* apply to any customized reports provided by the NANPA or any other entity to the states, to the extent that such reports contain carrier-specific, disaggregated data.

2. State Commissions' Access to Numbering Resource Application Information

120. In the *First Report and Order*, we granted to state commissions access to carriers'

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[308] That is, states are entitled to one report per data collection cycle. We believe that states should have direct access to mandatory data and we address this issue in the attached *Second Further Notice*. *See infra* section VII.D.

[309] The February 20, 1997 NANPA Requirements Document at § 7.0 states that enterprise services are "services not described elsewhere in this Requirements Document that may be provided by the new NANPA for a specific fee. Enterprise services and their associated fees are subject to prior approval by the NANC." *See Administration of the North American Numbering Plan*, Third Report and Order, 12 FCC Rcd 23040 (1997).

[310] *See* 47 C.F.R. § 52.12(f) (stating that the NANPA shall identify all direct costs associated with enterprise services and submit them to the NANC for review, and to the Commission for appropriate review and action). *See also Administration of the North American Numbering Plan*, Third Report and Order, 12 FCC Rcd 23040 (1997).

[311] Any such entity would be subject to the same confidentiality requirements that the states are subject to when given access to carrier-specific, disaggregated data.

applications for initial and growth numbering resources.[312] We also required that the state commissions treat this information as confidential.[313] We did not specify in the *First Report and Order* whether the NANPA, the Pooling Administrator in pooled areas, or carriers themselves must provide such access, or the scope of information that should be made available.

121. We clarify that state commissions seeking access to carriers' numbering resource applications should request copies of such application materials directly from the carriers operating within their states. Not burdening the NANPA and the Pooling Administrator with the obligation to provide states with numbering resource applications will foster fairness in nationwide numbering administration by limiting the extent to which state-specific requests can increase the cost of national numbering administration. We also find that the burden to carriers of providing to the state commission a copy of what the carrier has provided to the administrator, if requested, is minimal.

122. We also clarify that all carriers that receive numbering resources must comply with state requests for copies of numbering resource application materials. Access to these materials is specifically provided for in the *First Report and Order* and herein. Thus, carriers that a state demonstrates to the NANPA or Pooling Administrator have failed to comply with a state request for numbering resource application materials shall be denied numbering resources. In furtherance of our goal of a uniform nationwide carrier reporting scheme, state commissions may not require carriers to submit additional or different application materials from those submitted to the NANPA or the Pooling Administrator when requesting numbering resources, so that carriers may simply submit duplicate copies of such materials to the states, upon request.[314] State commissions may, however, determine whether this information must be provided whenever an application for numbering resources is made, or whether it may be provided less frequently or only in particular circumstances. To ensure that state commissions are aware of when an application for numbering resources has been submitted, state commissions may request notification from the NANPA.

123. Finally, we clarify that our grant to state commissions of access to numbering resource application materials is not intended to delay the processing of carriers' applications for numbering resources. Notwithstanding the state commissions' role in determining the validity of data submitted pursuant to our mandatory reporting requirements,[315] our intent is not to give state commissions a veto over approval of applications, nor is it to introduce an additional layer of review for applications. The NANPA and the Pooling Administrator are responsible for

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312 *First Report and Order*, 15 FCC Rcd at 7609, para. 82.

313 *Id.*

314 We do not preclude the NANPA or the Pooling Administrator from providing application materials as an enterprise service to states that prefer to receive such materials from a single source, as long as the costs associated with providing these materials are borne by the requesting states. As with other enterprise service offerings, any associated fees shall be reasonable and supported by detailed cost analysis from which the reasonableness of the fees may be determined. Similarly, we do not preclude carriers from providing more or different information to the states if the carrier agrees to do so or if the state has a separate basis for the request (*e.g.*, for auditing purposes).

315 *First Report and Order*, 15 FCC Rcd at 7598-99, para. 54.

determining whether application materials are sufficient in the first instance.[316] State commissions, nevertheless, may continue to review applications for initial numbering resources when a carrier disputes a decision to withhold such numbering resources and seeks resolution from the state commission.[317] In the attached *Second Further Notice*, we find some merit and seek comment whether states should have password-protected access to mandatorily reported data received by the NANPA. As we have in the past, we will continue to consider individual requests for authority from states' for the collection of information from carriers that the requesting state believes is necessary and that is not captured in the national data collection.

VII. FURTHER NOTICE OF PROPOSED RULEMAKING

A. Service-Specific and Technology-Specific Overlays

124. *Background.* The Commission has prohibited service-specific and technology-specific overlays, initially in the *Ameritech Order*,[318] and then more broadly in the *Local Competition Second Report and Order.* In the *Ameritech Order*, we rejected a wireless-only overlay plan proposed by Ameritech for the 708 area code on the grounds that it would be unreasonably discriminatory and would unduly inhibit competition. We expressed concern about several facets of Ameritech's area code relief plan: the proposal to continue assigning 708 numbers to wireline carriers but to exclude paging and cellular carriers from such assignments; the proposal to require paging and cellular carriers to take back 708 numbers previously assigned to their subscribers, while wireline carriers would not be required to do so; and the proposal to assign all numbers to paging and cellular carriers exclusively from the existing 312 and new 630 area codes, while wireline carriers (and perhaps others) would continue to receive 708 numbers.[319] We found that Ameritech's plan would place paging and cellular companies at a distinct competitive disadvantage because their customers would suffer the cost and inconvenience of having to surrender existing numbers and go through the process of reprogramming their equipment, changing over to new numbers, and informing callers of their new numbers.[320] We also found that any numbering resource optimization benefits from this plan were outweighed by the disproportionate burden that the plan would place on paging and cellular carriers.[321] In the *Local Competition Second Report and Order*, we adopted our rule prohibiting service-specific and technology-specific overlays relying on the analysis outlined in the *Ameritech Order*.[322]

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316 We required in the *First Report and Order* the NANPA, with cooperation from the NANC, to develop criteria to assess applications for initial and growth numbering resources.

317 *First Report and Order*, 15 FCC Rcd at 7615, para. 98.

318 *Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech – Illinois*, Declaratory Ruling and Order, 10 FCC Rcd 4596 (1995) (*Ameritech Order*).

319 *Ameritech Order,* 10 FCC Rcd at 4605, 4607-09, 4610-12, paras. 21-36.

320 *Id.* at 4608.

321 *Id.*

322 *Local Competition Second Report and Order,* 11 FCC Rcd at 19512.

125. The Connecticut Commission, the Massachusetts Commission, and the California Commission have filed petitions to amend or waive the Commission's rules prohibiting technology-specific or service-specific overlays so they can implement such overlays.[323] The Ohio Commission and Pennsylvania Commission have filed petitions for additional delegated authority to implement service-specific and technology-specific area code overlays.

126. In the *Notice*, we indicated that we continued to believe that service-specific and technology-specific overlays raised serious competitive concerns, but that in light of the current numbering crisis, we decided to reexamine our policies and to consider whether we should modify or lift the restriction on these area code relief methods.[324] Specifically, we sought comment on whether technology-specific and service-specific overlays could yield potential new benefits that were not previously contemplated, and on how a technology-specific or service-specific overlay could be implemented in a manner that would promote numbering resource optimization objectives.[325] We also sought comment on whether there are specific services or technologies that could be assigned numbers from a technology or service-specific overlay area code without raising the competitive concerns that were cited in the *Ameritech Order*.[326] Moreover, we sought comment on whether we should consider exceptions to the current prohibition on a case-by-case basis or whether we should adopt general rules or guidelines.[327] Furthermore, we sought comment on whether we should address requests for service-specific and technology-specific overlays at the federal level, or whether we should delegate authority to the states to establish service-specific and technology-specific overlays within federal rules and guidelines.[328]

127. Commenters were generally split about whether the Commission should permit service-specific and technology-specific overlays. The majority of state commissions support lifting the prohibition, arguing that service-specific and technology-specific overlays are important additional tools to address the current numbering crisis.[329] Carriers, on the other hand, argue that

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323 *See Connecticut Department of Public Utility Control Files Petition for Rulemaking, Public Comment Invited*, Public Notice, 13 FCC Rcd 7416 (1998) (Connecticut Petition); *Common Carrier Bureau Seeks Comment on Massachusetts Department of Telecommunications and Energy Petition for Waiver to Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes*, Public Notice, 10 FCC Rcd 5083 (1999); *Common Carrier Bureau Seeks Comment on a Petition of the California Public Utilites Commission and the People of the State of California for a Waiver to Implement a Technology-Specific or Service-Specific Area Code*, Public Notice, 14 FCC Rcd 7490 (1999).

324 *Notice*, 14 FCC Rcd at 10431, para. 257.

325 *Id.* at 10431-32, paras. 257-259.

326 *Id.* at 10431, para. 258.

327 *Id.* at 10432, para 261.

328 *Id.*

329 *See, e.g.*, California Commission Comments at 46-50; Connecticut Commission Comments at 8-11; Citizens Util. Bd., et al. Comments at 35-36; Maine Commission Comments at 27-29; New Hampshire Commission Comments at 21-22; New Jersey Commission Comments at 7; New York Commission Comments at 22; North Carolina Commission Comments at 18; Ohio Commission Comments at 41-42; Texas Commission Comments at 33-36.

the Commission should retain the current prohibition because service-specific and technology-specific overlays would place them at a competitive disadvantage and would result in inefficient use of numbering resources.[330] Subsequent to the close of the comment cycle on the *Notice*, however, SBC and the Joint Wireless Commenters presented proposals in *ex parte* filings that would permit service-specific and technology-specific overlays on a transitional basis.[331]

128. *Discussion.* We conclude that we should revisit the prohibition against service-specific and technology-specific overlays. We are persuaded by commenters who argue that this action is warranted by changes in the use of numbering resources that have occurred since the Commission's previous decisions.[332] State commissions, in particular, have urged that we permit them to implement service and technology-specific overlays to address the escalating demand for numbering resources. They argue that there is widespread public support for such overlays, especially as a means of avoiding new area codes for home and business phones.[333] By temporarily diverting a portion of the demand for numbering resources in existing area codes, implementation of service- or technology-specific overlays may help ease the transition to needed area code relief prior to the complete implementation of pooling, reducing end-user costs and inconveniences.

129. We nonetheless remain concerned about the potential competitive and efficiency implications of service and technology-specific overlays. We seek comment, however, on the conditions under which service-specific and technology-specific overlays must be implemented in order to promote competitive equity, maximize the efficient use of numbering resources, and minimize customer inconvenience.

130. We focus, in particular, upon proposals to permit state commissions to implement service- or technology-specific overlays on a "phased-in," or transitional basis, subject to certain conditions.[334] As the pace of numbering exhaust has increased, many states have become

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330 *See, e.g.,* AT&T Comments at 68-70; Bell Atlantic Comments at 38-39; BellSouth Comments at 19; GTE Comments at 74-76; WorldCom Comments at 64; Nextel Comments at 24-25; PageNet Comments at 5-9; PrimeCo Comments at 11; SBC Comments at 100-104; US West Comments at 8; VoiceStream Comments at 30-31; Winstar Comments at 45-46. *But see* Omnipoint Comments at 19 (arguing that in light of the current numbering crisis, Commission should reconsider prohibition and that service-specific and technology-specific overlays would provide wireless carriers with immediate access to numbers); Bell Atlantic Comments at 5-6, filed in response to *Connecticut Petition* (recommending that, in light of changes that have occurred in the use of numbering resources, Commission should reconsider prohibition against service and technology-specific overlays).

331 *See* Letter from Judith St. Ledger-Roty and Todd Daubert, Kelley, Drye & Warren, LLP, to Magalie Roman Salas, Secretary, FCC, dated November 15, 2000 (joint filing on behalf of PCIA, AT&T Wireless, Nextel, Verizon Wireless, Verizon Wireless Messaging services and VoiceStream Wireless) (Joint Wireless Commenters November 15 *ex parte*); *see also* letter from Celia Nogales, SBC, to Magalie Roman Salas, Secretary, FCC, dated November 19, 1999 (SBC November 19 *ex parte*).

332 *See, e.g.,* California Commission Comments at 46; Texas Public Util. Counsel and NASUCA Comments at 41.

333 *See, e.g.,* California Commission Comments at 46; Connecticut Commission Comments at 10; Maine Commission Comments at 27-28.

334 *See* Joint Wireless Commenters November 15 *ex parte. See also* SBC November 19 *ex parte.*

increasingly reluctant to implement area code relief, in the face of significant consumer resistance. In area codes that are nearing exhaust, this reluctance has often led to severe number rationing schemes, and routinely individual carriers may find themselves unable to obtain numbering resources necessary to serve customers.[335] Over the past few years, the Commission has received six requests for extraordinary relief from carriers in danger of running completely out of numbers, and has granted relief three times.[336] In view of this situation, offering states the option to implement transitional service- or technology-specific overlays, subject to certain conditions, may help them to undertake necessary area code relief in a manner that they may perceive to be less objectionable to their citizens.

131. As an initial matter, we seek comment on the relative advantages from a numbering resource optimization perspective, a competitive perspective, and a consumer convenience perspective of service- or technology-specific overlays as opposed to all-services overlays. All-services overlays promote efficiency by ensuring that all users of numbering resources may obtain numbers from the overlay code. In contrast, service- or technology-specific overlays, which provide numbering resources to only a portion of number users, could run the risk of being underutilized. However, service- or technology-specific overlays might enhance the efficient use of underlying NPAs by removing a portion of the demand for numbering resources from those underlying area codes and increasing the amount of numbers available to carriers drawing resources from those area codes, for example, through a pooling mechanism. We further seek comment on how the perceived advantages of service- or technology-specific overlays relate to the specific conditions under which they are permitted. For example, assuming the ten-digit dialing requirement was retained for service- or technology-specific overlays, would a service- or technology-specific overlay be preferable to an all-services overlay from a consumer, competitive, or efficiency perspective?

132. Next, it is necessary to determine what services or technologies may be assigned to a transitional service- or technology-specific overlay code.[337] One option would be to distinguish

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[335] Wireless carriers and CLECs are often hardest hit by restrictive numbering rationing measures. Wireless carriers are affected because of high growth rates and seasonal demand for services. CLECs are affected because they often need to obtain numbers in every rate center in an area code in order to establish a service footprint. However, in areas where there is pooling, wireline CLECs are able to obtain numbers through the pool mechanism, whereas wireless carriers, who do not currently have LNP capability, cannot.

[336] On March 12, 1999, the Common Carrier Bureau concurred with the conclusions of the New York Commission that Sprint PCS had adequately demonstrated its genuine and immediate need to obtain numbering resources in advance of the assignment schedule provided for in the 516 NPA rationing plan. *See* Sprint PCS Request for Emergency Numbering Relief in the 516 NPA, NSD File No. 99-25, DA 99-505 (Mar. 12, 1998). Similarly, on April 7, 1999, the Common Carrier Bureau concurred with the conclusions of the New York Commission that American Cellular Corporation had adequately demonstrated its genuine and immediate need to obtain numbering resources in advance of the assignment schedule provided for in the 914 NPA rationing plan. *See* Emergency Petition of American Cellular Corporation for Numbering Relief, NSD File No. 99-31, DA 99-663 (Apr. 7, 1999). On June 6, 2000, the Common Carrier Bureau granted AT&T Wireless an NXX Code in the 810 NPA.

[337] Parties have also suggested other alternatives, including fax-specific overlays and modem-specific overlays. It does not, however, appear possible to establish overlays that would separate out faxes or modems. These devices are generally used with ordinary wireline telephone connections often sharing the same number with an ordinary (continued....)

carriers that have implemented LNP from those that have not. This option appears sensible for several reasons. In the first place, a carrier's ability to participate in certain number conservation measures is determined by whether or not it has implemented LNP. LNP-capable carriers can participate in number pooling; non-LNP-capable carriers cannot. Second, this distinction between LNP-capable carriers and non-LNP-capable carriers is itself largely interim in nature, as most non-LNP-capable carriers are required to implement LNP within the next two years. [338] For these reasons, we seek comment on whether it is appropriate to allow the creation of transitional technology-specific overlays that distinguish between carriers based on whether they have implemented LNP or not.[339]

133. On this basis, we envision that states could choose to implement transitional technology-specific overlays that provide numbering resources solely to non-LNP-capable carriers. It is also conceivable that a state commission could choose to implement a transitional technology-specific overlay to provide numbering resources solely to LNP-capable carriers, for example, through a thousands-block number pooling mechanism. Of course, a transitional overlay serving LNP-capable carriers would be subject to the same conditions and limitations as one that serves non-LNP-capable carriers, as further detailed below.

134. Because one of the Commission's principal concerns about the competitive effect of technology-specific overlays has centered on "take-backs" of numbers from existing customers of carriers assigned to the technology-specific overlay, we tentatively conclude that transitional technology-specific overlays may not include mandatory "take-backs" and may only be implemented on a prospective basis. As the Commission noted in the *Ameritech Order*, taking back telephone numbers from carriers served by a technology-specific overlay would impose costs on those carriers and their customers, who would suffer the cost and inconvenience of surrendering their existing phone number, reprogramming their equipment, changing to new numbers, and informing callers of the new numbers.[340] In a technology-specific overlay context, "take-backs" would exclusively affect customers of the particular technologies for which the overlay is established. We agree with commenters that these costs would be significant, would impose a disparate impact on customers of the services affected by the "take-back," and would

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telephone, so there appears to be no reasonable way to distinguish the numbers associated with these devices from numbers associated with the provision of telephone services by the same carrier.

338 Covered CMRS carriers in the largest 100 MSAs must implement pooling by November 24, 2002. *CMRS LNP Forbearance Order,* 14 FCC Rcd at 3112. Wireline and covered CMRS carriers outside the top 100 MSAs are required to deploy LNP in the future only if and when they receive a request from a competing carrier. *LNP First Memorandum Opinion and Order on Reconsideration,* 12 FCC Rcd at 7314. Covered CMRS carriers outside the largest 100 MSAs, however, must support separation of the Mobile Identification Number (MIN) and the Mobile Directory Number (MDN) used to identify a subscriber, in order to support roaming by subscribers with ported numbers. Non-covered CMRS carriers, such as paging carriers, are not subject to LNP requirements of any kind. *LNP First Report and Order and Further Notice and Further Notice of Proposed Rulemaking,* 11 FCC Rcd at 8433-34.

339 Because we tentatively conclude that carriers should be included in an overlay on the basis of their technological capabilities, rather than on the basis of the type of service they provide, we will refer solely to technology-specific overlays from here on.

340 *Ameritech Order,* 10 FCC Rcd at 4608, para. 27.

thus adversely affect competition.[341] We seek comment on the tentative conclusion that transitional technology-specific overlays must be prospective, and may not include mandatory "take-backs."

135. We seek comment on whether the geographic boundaries of a transitional technology overlay should conform to the boundaries of an existing area code, or whether it would be appropriate to allow a transitional technology-specific overlay that covered the geographic area of more than one pre-existing area code.[342] Further we seek comment on whether we should permit state commissions to implement transitional technology-specific overlays only where pooling has been implemented in the underlying area code, or where pooling will be implemented by the time carriers may begin taking numbers from the transitional technology-specific overlay, as proposed by the Joint Wireless Commenters.[343]

136. We also seek comment on how transitional technology-specific overlays should operate. Under the Joint Wireless Commenters' proposal, non-LNP-capable carriers that qualify for additional numbering resources under the Commission's rules would receive NXX codes only from the transitional overlay.[344] The proposal limits the duration of this segregation, however, by providing that the overlay code would be converted to an all-services overlay and used to supply numbering resources to all carriers serving the underlying geographic region after the underlying NPA reaches exhaust (specifically, when the Pooling Administrator needs additional NXX codes to meet the needs of the pool and there are no remaining NXX codes in the original NPA). In the alternative, we could provide that transitional technology-specific overlays be converted to all-services overlays no later than the date by which covered CMRS providers are required to participate in thousands-block number pooling. We find that the ultimate transition from technology specific to all-services overlay both maximizes the efficient use of numbering resources, and serves to mitigate certain of our concerns about the potential anti-competitive effects of segregation.[345] We seek comment on this approach and on the appropriate point for transition from technology-specific to all-services overlay.

137. In addition, we seek comment on whether and how our mandatory ten-digit dialing rule should apply in the context of transitional technology-specific overlays. Normally, ten-digit dialing is triggered when an overlay is established, *i.e.*, consumers dial ten digits for all local calls in an area with an overlay area code.[346] Under the Joint Wireless Commenters' proposal, the

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341 *See, e.g.*, AT&T Comments at 69-70.

342 *See* Joint Wireless Commenters November 15 *ex parte*.

343 *See* Joint Wireless Commenters November 15 *ex parte*.

344 *Id.*

345 *See* Letter from Douglas I. Brandon, AT&T Wireless, to Yog R. Varma, Deputy Chief, Common Carrier Bureau, dated November 20, 2000; *see also* Letter from Anne E. Hoskins, Verizon Wireless, to Yog R. Varma, Deputy Chief, Common Carrier Bureau, dated November 21, 2000.

346 *Local Competition Second Report and Order*, 11 FCC Rcd at 19518. The Commission mandates ten-digit dialing for all-services overlays based on the assumption that dialing parity is necessary to preserve competition between carriers assigned numbers in the underlying NPA and carriers assigned numbers in the overlay NPA. (continued....)

requirement for mandatory ten-digit dialing would be waived either until the overlay was converted to an all-services overlay (*i.e.*, numbering resources in the underlying area code were exhausted) or until the date upon which CMRS carriers are required to participate in thousands-block number pooling. The Joint Wireless Commenters propose, however, that permissive ten-digit dialing be provided when the transitional technology-specific overlay is implemented.

138. The Joint Wireless Commenters believe that this proposal may make transitional overlays more attractive to states, many of which have resisted implementing overlays because of the ten-digit dialing requirement. We are concerned about the potential competitive impacts that would result from a waiver of the ten-digit dialing requirement. We acknowledge, however, that the potential anti-competitive effect would be mitigated because ten-digit dialing would be waived only for a limited period of time. We seek comment on whether there is a basis to depart from the ten-digit dialing requirement for a transitional overlay. To the extent that such a departure would be necessary, we seek comment on whether it would be appropriate to waive the ten-digit dialing requirement as the Joint Wireless Commenters have proposed until the overlay is converted to an all-services overlay or until CMRS carriers are required to participate in thousands-block number pooling, whichever occurs earlier. To the extent that commenters disagree with this approach, we invite them to suggest alternatives.

139. Where a state chooses to implement a transitional technology-specific overlay to provide NXX code resources for non-LNP capable carriers, we seek comment about whether LNP-capable carriers should be prohibited from taking numbers out of the transitional overlay code prior to the time that it is converted to an all services overlay. Such a requirement would appear to be necessary to preserve the integrity of pooling by requiring all LNP-capable carriers to obtain numbering resources solely through the number pool mechanism. We do not intend, however, to in any way lessen covered CMRS carriers' incentive to timely implement LNP by appearing to provide them with a "protected" source of numbers. One way to achieve this objective might be to require that all transitional overlays convert to all-services overlays by the November 24, 2002 deadline for covered CMRS carriers to implement pooling.[347]

140. We further seek comment on whether there should be any limitations on when states are permitted to implement transitional technology-specific overlays. For example, the Joint Wireless Commenters advocate that transitional technology-specific overlays be used in situations where the underlying area code is relatively close to exhaust. For this reason, they recommend that the transitional overlay be established when the original NPA only has remaining the greater of (1) 30 NXX codes, or (2) a quantity of NXX codes equal to the number of rate centers in the underlying NPA.[348] Such a condition could potentially guard against implementation of a transitional overlay in areas where there are still sufficient numbering resources available to all carriers in the underlying area code.[349] We seek comment on this

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Under this requirement, ten-digit dialing is required within the overlay and within the existing NPA. Ten-digit dialing is also required for calls between the overlay code and the existing NPA.

[347] *See supra* section IV.C.

[348] *See* Joint Wireless Commenters November 15 *ex parte*.

[349] *See* AT&T Wireless November 20, 2000 *ex parte;* Verizon Wireless November 21, 2000 *ex parte*.

proposal and on whether it is possible to establish such a concrete set of triggering conditions for this form of area code relief. We also seek comment about whether an alternative set of triggering conditions would be more appropriate. For example, should states be permitted to implement transition technology-specific overlays when a specific overall NPA-wide utilization threshold is met? We further seek comment on whether there are any other additional conditions that should be placed on states' ability to implement transitional technology-specific overlays. For example, the Joint Wireless Commenters propose that where a state has implemented a transitional technology-specific overlay, any state imposed rationing scheme in either the underlying area code or the transitional overlay should be ended. We seek comment on whether this type of restriction should be imposed.

141. Finally, we also seek comment on whether we should permit states that wish to designate transitional service or technology-specific area codes for groups besides non-LNP-capable carriers to do so. If so, we seek comment on whether the considerations that would be applied in those situations would be similar or different to those above.

142. Apart from transitional service- or technology-specific overlays, we seek comment on whether it would be appropriate to permit states to establish long-term overlays for certain services. Such services may include services that currently utilize numbers located in any area, such as certain unified messaging services. They also may include certain automatic crash notification services and concierge services, in which the telephone number serves only to establish communication with a specific service provider, and not with other parties.[350] We seek comment on what other types of services may fall into this category. We also seek comment on whether establishing long-term service-specific overlays for such services would raise the same types of competitive concerns that we have identified with other service-specific overlays. In addition, we seek comment on whether these types of services use, or may in the future use, enough numbering resources that establishing long-term service-specific overlays to accommodate them would have numbering resource optimization benefits, or, in the alternative, would contribute to NANP exhaust by introducing new NPAs for which there is insufficient demand.

143. As explained above, our goal in opening this further inquiry into conditions under which service or technology-specific overlays may be implemented is to provide state commissions with additional number optimization tools, while ensuring that competitive equity and efficiency in numbering administration are preserved. In this light, we seek comment on any additional concerns or considerations that will inform our decision.

B. The Rate Center Problem

144. One of the major contributing factors to numbering resource exhaust is the existence of multiple rate centers in each NPA and the demand by most carriers to have numbering resources in each rate center in which they operate.[351] The rate center system was established in the 1940s primarily to facilitate the routing and billing of telephone calls. Carriers typically need numbering resources in multiple rate centers to establish a footprint in a particular

350 For example, General Motors' OnStar Service.

351 *Notice*, 14 FCC Rcd at 10328, para. 15.

geographic area. This initial allocation of NXX codes and thousands blocks often results in the allocation of many more numbers than a carrier needs to serve its customers, which, in turn, leads to many numbers becoming "stranded" and unusable by other carriers.

145. The Commission has solicited comment on how to address and resolve the problems resulting from the existence of multiple rate centers in each NPA. Many of the questions raised focused on rate center consolidation, in which multiple rate centers are combined, thereby reducing the number of blocks or NXX codes that a carrier needs to establish a footprint in a given area. In the *Notice*, for example, we sought comment on how rate center consolidation potentially affects the efficiency of other methods of number conservation, such as number pooling.[352] We also questioned how rate center consolidation would affect the routing of E911 calls, which tend to use NXX codes for default routing to the nearest PSAP.[353] In addition, we asked whether the Commission should establish incentives for states to consolidate rate centers, and if so, by what means.[354] In the *716 Public Notice*, we further inquired about the possible tension between rate center consolidation and the INC guideline against the splitting of rate centers when area code relief in the form of a geographic split is implemented.[355]

146. We seek further comment on the rate center problem, particularly on what policies could be implemented at the federal level to reduce the extent to which the rate center system contributes to and/or accelerates numbering resource exhaust. Rate center consolidation is but one option; other possible solutions include extending local calling areas, and encouraging call billing methods that are not NXX dependent.

147. The Commission has stated repeatedly that states have authority to consolidate rate centers. Indeed, we have conveyed the importance of rate center consolidation and encouraged states to consolidate rate centers wherever possible. We believe that consolidating rate centers prior to implementing thousands-block number pooling and area code relief will increase the efficiency of these measures, because carriers will need fewer initial and growth numbering resources to provide service in a given area. In the *First Report and Order*, we declined to mandate rate center consolidation as a precursor to the national rollout of thousands-block number pooling,[356] which some commenters had supported to encourage rate center consolidation.[357] We nevertheless encourage states to consider and implement rate center consolidation on their own. Particularly, we encourage states to explore rate center consolidation opportunities in areas where contiguous calling areas have identical or substantially similar rating

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352 *Id.* at 10375, para. 120.

353 *Id.* at 10375, para. 121.

354 *Id.* at 10369, para. 106.

355 *Common Carrier Bureau Seeks Comment on the State of New York Department of Public Service Request for the Release of a New Area Code to Provide Relief for the 716 Numbering Plan Area*, Public Notice, CC Docket 96-98, NSD File No. L-00-161, DA 00-1806 (rel. Aug. 9, 2000) (*716 Public Notice*).

356 *First Report and Order*, 15 FCC Rcd at 7628, para. 128.

357 *See, e.g.*, AirTouch Comments at 4; Sprint Comments at 22.

schemes. Rate center consolidation in these areas is least likely to have a significant impact on carrier revenues, because minimal realignment of local, extended, and toll calling boundaries would be necessary.

148. We are mindful that rate center consolidation may be a difficult option for many states and carriers, especially incumbent local exchange carriers, because of the historic connection between rate centers and the billing, as well as routing, of calls. Rate center consolidation determines which calls are local versus toll, and thus consolidation may deprive some carriers of toll revenue. We therefore seek comment on ways of severing the connection between number assignment and call rating and routing. We also seek comment from the industry and state commissions on past and present rate center consolidation efforts, including information on the impact rate center consolidation has had on numbering optimization. Finally, we seek analysis of the benefits and costs of rate center consolidation in the 100 largest MSAs in the country, where we believe it would have the most significant effect. We believe that metropolitan regions are optimal candidates for rate center consolidation because they tend to involve more competing LECs and a higher demand for number resources.

C. Liability of Related Carriers

149. Monitoring individual carriers' use of numbering resources is a necessary prerequisite to ensure efficient use of these resources and prevent the NANP from being exhausted prematurely. In the *First Report and Order*, the Commission established new semiannual reporting requirements to obtain more consistent, accurate, and complete reporting of numbering resource utilization and forecast data. Carriers are required to comply with the new reporting requirements, and the NANPA was directed to withhold numbering resources from non-compliant carriers. In the *First Report and Order*, the Commission did not address whether reporting carriers should be held accountable when related carriers fail to comply with the mandatory reporting requirements.

150. We believe that parent companies should play an active role in number conservation efforts, even if the parent companies are not themselves, reporting carriers. By encouraging, monitoring, and offering incentives for compliance from the top down, parent companies can contribute greatly to the success of our numbering resources optimization goals. We therefore tentatively conclude that carriers should, in certain instances, have numbering resources withheld when related carriers are subject to withholding for failure to comply with our mandatory reporting requirements. We seek comment on how to identify the relationships (*i.e.*, the existence of parent and sister companies) among reporting carriers, and what geographic limitations should be placed on those relationships in determining liability among related carriers. Specifically, should related carriers nationwide be affected, or only related carriers located within the same state, NPA or rate center as the noncompliant carrier? Commenters that believe only the noncompliant carrier should be subject to withholding of numbering resources should provide specific comments on other ways of providing incentives for parent companies to encourage and require compliance from all of their related reporting carriers and to ensure that our numbering resource optimization goals are not undermined by the complexities of corporate structures.

D. State Commissions' Access to Mandatory Reporting Data

151. In the attached *Second Report and Order*, we clarified the scope of states' access

to semi-annually reported data.[358] We also clarified that state commissions must continue to permit the NANPA to process requests for numbering resources in a timely fashion.[359] Some states assert that they require the same access to reporting data received by the NANPA; that is, full access to the database in which reported forecast and utilization data is stored.[360] We find some merit in this proposal, and thus tentatively conclude that states should have password-protected access to mandatorily reported data received by the NANPA. NeuStar has proposed to provide the states with password access to obtain information from the NANPA.[361] We seek comment on whether the type of access NeuStar proposes is necessary, sufficient or whether the access already granted is sufficient to accommodate the states' requests.

E. Fee for Number Reservations

152. We seek further comment on the NANC's proposal to allow unlimited reservations of numbers on a month-to month basis.[362] In the attached *Second Report and Order*, we conclude that the period for reserving numbers should be increased to a maximum of 180 days with no extensions. Some commenters suggested that the reservation period should be extended to 12 months, with additional time for extensions. We seek comment on whether unlimited reservations of numbers are necessary, or whether there should be a constraint on the time period that numbers can be reserved. We note that the NANC recommended that the fee be paid by end users, and seek comment on whether imposing a fee on end users would provide the appropriate incentives in this context. Alternatively, we seek comment on whether charging a fee to carriers would provide more appropriate incentives for number use. Commenters should also enumerate whether unlimited reservations of numbers should be allowed and propose a time period for which numbers may be reserved. Commenters should also state whether a fee should be charged for reserving numbers, who should pay for the fee and a specific fee amount. Commenters should also address how the fee revenues should be applied, particularly if, fees are charged to carriers by the Commission.

F. Enforcement

153. In the attached *Second Report and Order*, we set forth a comprehensive audit program to verify carrier compliance with federal rules and orders and industry guidelines,[363] and conclude that auditors in the Accounting Safeguards Division, or other Commission designated agents, will perform the audits.[364] We also state that carriers found to be in violation of our

358 *See supra* section VI.F.

359 *Id.*

360 *See* California Commission July 21 Petition at 7-14; Maine Commission July 17 Petition at 11-13.

361 *See NeuStar, Inc. Petition for Compensation Adjustment, Request for Approval of Implementation Schedule and Emergency Request for Interim Relief*, CC Docket No. 99-200 (June 30, 2000).

362 *See* Letter from John Hoffman, Chairman, North American Numbering Council, to Dorothy Attwood, Chief, Common Carrier Bureau, dated September 20, 2000.

363 *See supra* section VI.A.

364 *See supra* section VI.A.2.

requirements may be subject to possible enforcement action, which may include monetary forfeitures, revocation of interstate operating authority and cease and desist orders.[365]

154. In addition to our traditional enforcement tools, we tentatively conclude that carriers that violate our numbering requirements, or that fail to cooperate with the auditor to conduct either a "for cause" or random audit, should also be denied numbering resources in certain instances. We seek comment on this tentative conclusion. We also seek comment on the process by which this additional remedy should be invoked. Specifically, we seek comment on whether only the Commission should direct the NANPA or Pooling Administrator to withhold numbering resources. We note that section 220(f) bars public release of audit findings except as directed by the Commission or court.[366]

G. State Commissions' Authority to Conduct "For Cause" and "Random" Audits

155. In the attached *Second Report and Order*, we set forth a comprehensive audit program to verify carrier compliance with federal rules and orders and industry numbering guidelines, and conclude that the audit program will consist of "for cause" and random audits, performed by an auditor designated by the Common Carrier Bureau.[367] Although we believe that a national program will provide some degree of uniformity across the country in the way that audits are conducted, we recognize that state commissions would benefit from having a role in conducting these carrier audits.[368] We therefore seek comment on whether state commissions should be given independent authority to conduct "for cause" and random audits in lieu of or in addition to the national audit program established in the attached *Second Report and Order*, and what parameters should apply to any such authority. In particular, commenters should address concerns about state commissions employing different standards in performing "for cause" and random audits that might force carriers operating in multiple states to comply with different demands. In seeking comment on this issue, we do not address state commissions' authority to perform audits under state law.

H. Developing Market-Based Approaches for Optimizing Numbering Resources

156. In the *Notice*, we sought comment on alternative mechanisms for establishing a market-based solution to improve the allocation and use of numbering resources, the administrative burdens a market-based solution might impose on carriers, and the likely effect on competition of such an approach.[369] At that time, most commenters opposed market-based allocation of numbering resources. The potential benefits of a flexible, market-oriented approach for allocating numbering resources, however, led us to seek additional comment on how the

365 *See supra* section VI.A.3.

366 47 U.S.C. 220(f).

367 *See supra* section VI.A.

368 *See generally supra* section VI.A.

369 *Notice*, 14 FCC Rcd at 10418, para. 230.

existing administrative measures could be supplemented or supplanted by market-based solutions and whether such an approach could strike this balance more effectively. In the *Further Notice,* we suggested that a market-based approach is the most pro-competitive, least intrusive way of ensuring that numbering resources are efficiently allocated.[370] In response to the *Further Notice,* many carriers expressed opposition to a market-based allocation system for numbering resources, while some state utility commissions generally supported it.

157. In this *Second Further Notice*, we discuss the need for a market-based allocation system for numbering resources, and seek specific proposals on how to structure such a system, including the scope of our statutory authority to do so. We continue to believe that market-based methodologies for allocating numbering resources, either in conjunction with or as a substitute for some or all of the existing allocation rules, may best ensure that numbers will be allocated efficiently, provided that they are structured on an equitable and non-discriminatory basis.

1. Commission Authority to Charge for Numbers

158. In the *Notice*, we sought comment on whether the Commission possesses the statutory authority to implement a market-based system for allocating numbering resources. Comments on this issue were limited. In the *Notice*, however, we did not request comment on specific market-based proposals. In this *Second Further Notice*, we provide more detailed information on the form that market-based mechanisms might take, and request that commenters propose specific market-based number allocation mechanisms. We seek comment on whether the Commission has the requisite authority to implement the proposals contained herein, as well as any proposed by commenters. If such authority is lacking, we request that commenters address what authority would be necessary. Commenters should address the scope of the Commission's plenary authority over numbering resource allocation in the United States pursuant to section 251(e). Commenters should also address statutory provisions pertaining to the Commission's authority to collect funds from carriers, as well as the statutory requirements on how such funds should be expended.

159. To emphasize that our goal in moving towards a market-based assignment process for numbers in the primary market is to increase the efficiency of numbering resource usage, and not to raise additional funds for Commission-approved programs (such as universal service, TRS, etc.), we sought comment in the *Further Notice* on whether we should use any funds collected for numbers to offset other payments carriers currently make to fund these programs. We continue to believe that the collection of money for numbering resources in the primary market should not increase the telecommunications industry's aggregate obligation for regulatory contributions and collections such as universal service, and telecommunications relay services. We seek comment on whether the way in which collected funds are used affects the extent of our authority under the Act to implement market-based allocation mechanisms. Specifically, we seek comment on whether our authority under section 254 enables us to implement a market-based number allocation system as a means of funding universal service.[371]

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[370] *First Report and Order*, 15 FCC Rcd at 10428, para. 251.

[371] 47 U.S.C. § 254. There are some inherent difficulties with this proposal. For example, this scheme would shift primary responsibility for universal service funding from IXCs and wireless carriers to ILECs. We also (continued....)

160. We urge commenters to discuss how the Commission could structure a market-based allocation system that would retain its efficiency while working within the constraints of existing statutory authority. Commenters that believe that a market-based system could be structured more efficiently if the Commission had additional statutory authority to do so should describe the additional statutory authority that would be necessary.

2. The Need for a Market-Based Allocation System

161. The impetus for establishing a market-based numbering resource allocation system was our belief that the lack of efficiency in carrier utilization of numbers may be in part due to the failure of existing allocation rules to recognize the economic value of numbers. By explicitly recognizing the value of numbers, we seek to provide incentives for carriers to take and retain only as many numbers as they need, in the short term, to provide service to their customers.

162. Several parties argue that carriers already incur a great deal of costs under the current allocation system and that these costs impose sufficient discipline on them to discourage inefficient use.[372] Although we recognize that carriers incur costs under the present system for their use of numbers, we believe that efficient utilization will be better achieved if carriers pay a fee for numbering resources that is closely related to the supply and demand for numbers in a specific market.[373] At the present time, the costs that carriers incur are not directly related to these factors, and therefore do not effectively encourage efficient number use. Where a competitive market for numbering resources exists, carriers that obtain more numbers than they need would be incurring unnecessary expense, and carriers that hold inventories of numbers in excess of their needs would be foregoing the revenue they could gain from selling or leasing them.

163. Moreover, we believe that if markets for numbering resources are structured in a manner that is competitively neutral, they will not create entry barriers to small entities or new entrants, but rather could serve to ensure a ready supply of numbering resources to such entities, in contrast with the rationing schemes they currently face in some areas. It is essential, however, that such markets be structured to avoid inequities that might occur through anti-competitive behavior, such as attempts by well-financed carriers to stockpile numbers to keep them away from their less well-financed competitors, or through unintended disparate impacts of the market mechanism, such as failure to take into account the competitive advantages associated with carriers' pre-existing number inventories. In light of these concerns, we seek comment on how to structure a numbering resources market mechanism in a manner that treats all users of numbering resources, and by implication, their existing and potential customers, in a fair, equitable and non-discriminatory manner.[374]

(Continued from previous page)
recognize that we would need to consult with the Universal Service Joint Board before implementing such a scheme.

372 *See* Level 3 Comments at 13; PrimeCo Comments at 10; WorldCom Comments at 48.

373 As many commenting parties point out, prices that are too low relative to the market price will not sufficiently improve numbering resource allocation and prices that are too high will discourage both efficient and inefficient telephone numbering use. *See* WorldCom Comments at 49; Ad Hoc Comments at 12.

374 *See, e.g.*, California Commission Comments at 40.

3. Structure of Markets

164. We believe that, where a competitively neutral primary market for numbers exists, permitting a secondary market to develop would further increase the efficiency with which numbers are used by creating economic incentives for carriers to find ways to transfer unused numbering resources in a given geographic area to others with a greater need for those resources. Under the present system, carriers sometimes receive numbers in blocks larger than their actual need. Thousands-block number pooling will substantially address this problem, but cannot eliminate it altogether. Some carriers, particularly new entrants, may need fewer than a thousand numbers in many of the rate centers they serve. Also, our current rules do not require carriers to contribute thousands-blocks to the pool if more than ten percent of the numbers in the block have been used. At present, it does not appear that existing LNP capacity can support pooling if blocks are more than 10 percent contaminated, and the industry has little incentive, other than regulatory mandate, to increase LNP capacity for pooling purposes. Creating a secondary market should introduce an opportunity cost for unused numbering resources that will encourage carriers to develop innovative ways to move these stranded resources to other carriers that may need and can use those resources. We therefore tentatively conclude that any market-based allocation system for numbering resources that we consider should include both primary and secondary markets for numbering resources.

a. Primary Market

165. In the *Notice* we sought comment on whether the price of numbers in the primary market, if implemented, should be established administratively or through the market using an auction.[375] Several commenters argued that administrative prices would be unworkable because regulators are incapable of setting the "economically correct" prices.[376] We agree that it is not easy to establish economically efficient prices administratively, and therefore seek comment on whether an auction would be the best and the most efficient economic means of allocating numbering resources in the primary market. The most direct approach for implementing a primary market for numbers may be to hold a separate auction for new numbering resources in each NPA, because the administrative costs of holding auctions in each of over 19,000 rate centers would almost certainly be excessive. We seek comment on whether the NANPA and the national Pooling Administrator would be in the best position to conduct such auctions, and we look for any other suggestions as to how an auction methodology should be designed. We also seek comment on how the supply of numbers to be auctioned in each geographic area would be determined.[377]

166. Several parties argue that market-based auctions might be too costly to administer.[378] These commenters, however, offer no support for their assertion. As we noted in

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375 *Notice*, 14 FCC Rcd at 10419-20, paras. 231-233.

376 SBC Comments at 109; WorldCom Comments at 49.

377 The rate at which numbers are released for auction will determine the life span of a given area code and/or the NANP as a whole, and, jointly with the demand for numbers, will determine the market price.

378 SBC Comments at 113; VoiceStream Comments at 17.

the *First Report and Order*, the costs associated with expanding the NANP are estimated to be between $50 - $150 billion.[379] Similarly, the costs to consumers of repeated area code relief can be substantial. We believe that any administrative costs associated with establishing a market for numbers will be smaller than the benefit of extending the life of area codes and the NANP. We seek further comment on this issue, however.

167. One alternative for setting a price for numbering resources would be for the Commission and the states collectively to develop an agreed-upon life for the NANP. Using this timeframe as a basis, we could authorize the states to control the release of new codes. Over time, the prescribed life of the NANP could be adjusted as better information on the costs associated with NANP exhaust evolves. We seek comment on this proposal and whether it would improve the efficiency of NANP allocation.

168. We also request parties to comment on whether prices for numbers in the primary market should be structured as a one-time charge, a recurring charge, or a combination of a flat non-recurring charge and a recurring charge. In response to the *Notice*, several commenters supported a recurring charge because such a charge would be consistent with a licensing arrangement, rather than ownership.[380] Some parties prefer a recurring charge to be imposed frequently to accommodate situations where numbers change hands, while others argue for annual fees.[381] The Ohio Commission proposes a two part approach in which part of the fee would be an administrative price that is designed to recover the costs associated with number administration, and the second part of the fee would be a "retention" price that would reflect the societal cost of numbering exhaust.[382] We seek comment on the Ohio Commission's proposal, and also invite other proposals that recognize the fungible nature of numbering resources.

169. We see benefits and problems with both approaches for collecting fees. A recurring fee would provide concrete benefits to carriers that returned numbers that they are not using to the NANPA. On the other hand, a one-time charge paid when numbering resources are obtained from the NANPA, may be less complex to administer, particularly if an auction mechanism is used to allocate numbers. We seek comment on the relative feasibility of auctions under a one-time charge and a recurring fee approach, and how auctions would be structured in either instance. We are also uncertain about the effect of a recurring charge in the primary market on the efficient operation of a secondary market, especially for stranded numbering resources. We therefore seek comment on how carriers could avoid having to pay a recurring charge on stranded numbers that cannot be used elsewhere in the network.[383]

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379 *See First Report and Order*, 15 FCC Rcd at 7580, n.10.

380 *See, e.g.*, New Hampshire Commission Comments at 20.

381 *See* California Commission Comments at 10-11; New Hampshire Commission Comments at 13-33; Texas Commission Comments at 4-6, Exhibit A.

382 Ohio Commission Comments at 39-40.

383 For example, we may have to require the NANPA to accept stranded individual numbers back from carriers if the carrier cannot transfer its stranded numbers directly to other carriers. Another possible approach would be to empower the NANPA to facilitate trades on the secondary market.

170. We next turn to the question of whether carriers should be required to pay for the existing inventories of numbers that they are holding. Several parties argue that our "competitive neutrality" policy requires that carriers holding existing inventories of numbers pay for those resources if a market is created.[384] We tentatively conclude that it would be preferable for carriers to pay for all of the resources that they hold, regardless of when they were obtained. We seek comment on this tentative conclusion. We also seek comment on how we should apply the market prices to the embedded base of numbers. Commenters should describe the administrative process we should employ to collect the required charges. Commenters should also address whether it is feasible to have an equitable market mechanism that applies solely to new numbers.

171. An appropriately structured market should discipline carriers against hoarding numbers, because carriers will be forced to pay to acquire the numbers and face the opportunity cost of retaining more numbers than they need. We seek comment, however, on whether there will remain a continuing need to retain certain existing administrative measures for allocating numbers in conjunction with the implementation of a market-based approach. For example, carriers could continue to be required to meet the eligibility tests we have established for initial and growth numbering resources before they are permitted to acquire additional resources from the NANPA or the national Pooling Administrator in the primary market.[385] In that instance, the secondary markets would primarily be used to redistribute numbers that would otherwise be stranded or unavailable to other carriers.

b. Secondary Market

172. Currently, NXX codes and thousands blocks are assigned to a specific rate center and cannot be ported across multiple rate centers. Thus, it is likely that each rate center would contain its own secondary market. Within each secondary market, service providers with available numbering resources would be permitted to sell or lease them to other service providers. We seek comment on the appropriate geographic scope of secondary markets.

173. Also, we recognize that a secondary market will not necessarily function well in rate centers where there are no, or only a single, CLEC. In these areas, the secondary market may not be sufficiently competitive to expect an incoming carrier to be able to obtain numbers at competitive prices from the small number of existing carriers. One possible method of addressing this situation is to direct the states to set aside a small quantity of NXXs to be distributed on a thousands-block basis to incoming carriers. There may be other solutions to this problem as well. We seek comment on how the Commission should address this issue.

174. We also seek comment on the extent to which we should regulate transactions in secondary markets. Specifically, we seek comment on how much structure we or the states should impose on these markets. Although we believe that government oversight should be minimal, we note that all markets are subject to some type of control, whether or not they are

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[384] Ad Hoc Comments at 10; AT&T Comments at 62; MediaOne Comments at 7; Nextlink Comments at 23. According to these parties, economic efficiency requires that carriers pay for all numbers that they control, regardless of when those numbers were obtained.

[385] 47 C.F.R. § 52.15(g).

specifically regulated by a regulatory agency. Government oversight is designed to encourage competition and openness, while at the same time preventing private actions that disrupt the market. Our objective with respect to secondary markets for numbering resources is the same.

175. We seek comment on whether we should determine how secondary markets must be organized. Specifically, we seek comment on whether carriers should be permitted to negotiate unrestricted deals among themselves or whether all carriers should be required to deal through a clearinghouse that establishes uniform trading rules. The advantage of direct dealing is that carriers would be free to tailor their agreements to meet the specific circumstances of each transaction. On the other hand, mandating a clearinghouse might reduce aggregate transaction costs and prevent carriers from discriminating against competitors or otherwise disrupting the market. A clearinghouse might also make it easier to track the sales of numbers since such information would be housed at a single location. A third option might be to permit, but not require, carriers to create and fund a clearinghouse on their own. We seek comment on these or any other alternatives.

176. We also seek comment on the types of reporting requirements that might be necessary to ensure that secondary markets are open, competitive, and effective. Data from such reporting will permit us to evaluate the efficacy of permitting the secondary market to reallocate numbering resources. We request comments on the type of data and the frequency with which they should be reported. At a minimum, we believe that quantities of numbers involved in transactions should be reported in the numbering resource utilization and forecast (NRUF) reports which are required to be filed by our current rules twice a year. We also request comment on whether we should require carriers to file information on purchase or lease prices and the quantities involved in the transaction. Commenters should address whether such reporting requirements would impose an unreasonable burden on either carriers or the NANPA. Finally, commenters should also comment on how numbers sold in the secondary market should be reported in the NRUF report. One possible approach would be to treat sold numbers identically to ported numbers.

4. Timing and Geographic Scope of Implementation

177. Participation in markets for numbers requires that carriers be able to receive and move numbers in precise quantities, which requires all carriers involved in the transfer of numbers to be LNP-capable. We therefore seek comment on whether implementation should be delayed until after covered CMRS carriers are required to become LNP-capable, and whether we should limit implementation to areas where LNP has been deployed.

178. We also seek comment on whether, if a market-based allocation system is implemented, we should implement both primary and secondary markets at the same time. It might be possible to implement the secondary market earlier than the primary market because the implementation of the secondary market might require nothing more than eliminating the current prohibition on carriers' exchanging numbers with each other for consideration.[386] If we were to implement secondary markets while numbers were still available at no charge in the primary

[386] *See* Central Office Code (NXX) Assignment Guidelines, INC 95-0407-008, at §7.0 (Nov. 13, 2000).

market, however, there may be incentives for carriers to obtain more numbers than they need in the primary market in order to sell them at a profit in the secondary market. In addition, carriers that could receive all the numbers they need in the primary market at no cost would not appear to have any incentive to pay for numbers in the secondary market. We seek comment on these issues, and on other alternative approaches regarding the sequence in which the primary and secondary markets should be implemented.

I. Recovery of Pooling Shared Industry and Direct Carrier-Specific Costs

179. In the *First Report and Order*, we adopted a competitively neutral cost recovery framework for thousands-block number pooling similar to the cost recovery mechanism established for number portability.[387] Specifically, we concluded that the cost recovery mechanism must be competitively neutral in that the costs for thousands-block number pooling should not: (a) give one provider an appreciable, incremental cost advantage over another when competing for a specific subscriber; and (b) have a disparate effect on competing providers' abilities to earn a normal return.[388] Further, we adopted three cost categories for thousands-block number pooling – shared industry costs (cost incurred by the industry as a whole such as NANP administration costs), carrier-specific costs directly related to thousands-block number pooling (such as enhancements to carriers SCP, LSMS, SOA, and OSS systems), and carrier-specific costs not directly related to thousands-block number pooling.[389] We concluded that incremental shared industry costs become carrier-specific costs once they are allocated among carriers, and we adopted the NANPA fund formula for allocating shared industry costs for thousands-block number pooling.[390] The incremental shared industry costs for thousands-block number pooling will be allocated to all carriers in proportion to each carrier's interstate, intrastate, and international telecommunications end-user revenue.[391] We, however, did not establish a cost recovery mechanism for incremental carrier-specific costs because the record did not contain adequate information regarding the range and magnitude of incremental thousands-block number pooling costs.

180. In the *Notice*, we tentatively concluded that incumbent LECs subject to rate-of-return or price cap regulation may not recover their interstate carrier-specific costs directly related to thousands-block number pooling through a federal charge assessed on end-users, but may recover the costs through other cost recovery mechanisms.[392] We requested detailed estimates of the costs of thousands-block number pooling and asked that commenters separate the estimates

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387 *First Report and Order*, 15 FCC Rcd at 7662, para. 193.

388 *Id.* at 7664, para. 199.

389 *Id.* at 7665, para. 201.

390 *Id.* at 7668, para. 207. Both shared industry costs and carrier-specific costs must be offset by any cost savings.

391 We determined that carriers may not recover costs that are not directly related to thousands-block number pooling.

392 *Notice*, 14 FCC Rcd at 10410, para. 204.

by category of costs.[393] As we stated in the *First Report and Order*, the amount and detail of the data provided in response to the *Notice* was insufficient for us to determine the amount and magnitude of the costs associated with thousands-block number pooling.[394] We, therefore, in the *Further Notice*, requested additional cost information to help us ascertain the appropriate cost recovery mechanism for the costs of thousands-block number pooling, including cost studies that take into account cost savings associated with thousands-block number pooling in comparison to the current numbering practices.[395] We, nonetheless, identified the type of costs for which carriers may seek recovery and noted that costs associated with state implemented pooling trials should be excluded from the federal cost recovery mechanism.[396]

181. As discussed above,[397] we are conducting the procurement of a national Pooling Administrator in accordance with federal requirements. Once selected through a competitive bidding process, the national Pooling Administrator must develop a schedule for the implementation of new pools as well as the transition of pooling trials already underway. This schedule will significantly influence the timing and amount of costs carriers will incur for pooling. After the national pooling roll-out schedule is finalized, the timing and amount of pooling costs should be more readily ascertainable. We intend to establish an appropriate national cost recovery mechanism for pooling costs at that time.

182. In the interim, because we find that the amount and detail of the data provided in response to our request in the *Further Notice* is insufficient for us to determine the amount and/or magnitude of the costs associated with thousands-block number pooling, we seek further comment and cost studies that quantify shared industry and direct carrier-specific costs of thousands-block number pooling. We emphasize that cost studies should take into account the cost savings associated with thousands-block number pooling in comparison to the current numbering practices that result in more frequent area code changes. We further emphasize that the quality of the specific cost data that carriers provide will determine the accuracy with which we are able to craft a cost recovery mechanism.

J. Thousands-Block Number Pooling for Non-LNP-Capable Carriers

183. In the *First Report and Order*, we determined that thousands-block number pooling is a valuable mechanism to remedy the inefficient allocation and use of our numbering resources.[398] We adopted thousands-block number pooling for LNP capable carriers,[399] and we

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393 *Id.* at 10407-08, para. 198.

394 *First Report and Order*, 15 FCC Rcd at 7687, para. 253.

395 *Id.*

396 *Id.* at 7671, para. 215.

397 See *supra* section IV.A.

398 *First Report and Order*, 15 FCC Rcd at 7625, para. 122.

399 Thousands-block number pooling relies on the LRN architecture that is used to support LNP, and therefore we have required LNP capable carriers to participate in thousands-block number pooling. Specifically, we have mandated thousands-block number pooling in the top 100 MSAs were carriers are required to be LNP capable. (continued....)

concluded that covered CMRS carriers must participate in thousands-block number pooling when they become LNP capable.[400] We also concluded that when non-LNP capable wireline carriers become LNP capable, whether voluntarily or pursuant to Commission rules, they too must participate in thousands-block number pooling.[401]

184. We believe that it is important for us to continue to explore possible expansion of our numbering resource optimization strategies. Thousands-block number pooling can help achieve greater number utilization both by allowing numbers to be allocated initially in smaller increments, and by providing a mechanism whereby the stranded numbering resources held by one carrier may be redistributed to other carriers. Therefore, we believe it is appropriate to consider whether extending our pooling requirements would further promote efficient use of numbering resources. Although in previous decisions we have indicated that it is necessary for carriers to achieve LNP capability before being able to participate in pooling, we seek comment on whether we should now require carriers to participate in pooling even if they are not required under our rules to implement LNP.

185. Under the Commission's current rules, certain carriers are exempted from pooling requirements, *e.g.*, carriers outside the largest 100 MSAs who have not received a request to deploy LNP from a competing carrier, and paging carriers. We seek comment about whether it would be appropriate to extend pooling requirements to these carriers. Specifically, to what degree would these carriers' participation in thousands-block number pooling help avoid premature exhaust of numbering resources at the 10,000 number block level (NXXs) and extend the life of the NANP? Conversely, to what degree would requiring these carriers to participate in pooling impose disproportionate costs on them in comparison to LNP-capable carriers operating in the 100 largest MSAs? We recognize that under such a requirement, non-LNP-capable carriers would be obligated to implement the common technological platform that is used to support both LNP and number pooling. We seek comment on the specific types of implementation costs that would be imposed, and the magnitude of these costs. We also seek comment on whether the incremental number optimization benefits of requiring these carriers to participate in pooling would outweigh these associated costs. For example, to what extent are these carriers such significant users of numbering resources that their participation in pooling would have significant numbering optimization benefits? We also seek comment on the benefits of thousands-block number pooling for competing carriers that need initial numbering resources in each rate center for the purpose of establishing their "footprints." We seek comment on whether we should limit any additional pooling requirements to certain classes of carriers, and if so, on what bases any exemptions should be made. In addition, if we were to impose pooling requirements on carriers irrespective of their LNP status, we seek comment on whether rural carriers should be exempt

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Outside the top 100 MSAs carriers are required to become LNP capable after receiving a request from another carrier. 47 C.F.R. § 52.23(b). The specific roll-out schedule for national thousands-block number pooling will be adopted after the Pooling Administrator is selected.

400 *First Report and Order*, 15 FCC Rcd. at 7632-33, para. 134.

401 *Id.*

from any such requirements.[402]

K. Waiver of Growth Numbering Resource Requirements

186. Presently, carriers that cannot meet the requirements for receiving growth numbering resources, but can demonstrate an actual need for additional numbering resources, may seek a waiver of our rules. We have, in the past, granted waivers to carriers demonstrating a need for growth numbering resources in instances where they were unable to get them under our rules or state-established requirements.[403] In most instances, these carriers had received a specific customer request for a large block of numbers, or were experiencing a spike in new business that current inventories could not accommodate.

187. Some commenting parties suggest that we take further steps to create an explicit "safety valve" that will allow carriers to obtain needed numbering resources in instances where they are unable to meet the utilization threshold in a given rate center.[404] Some carriers contend that a rate-center based threshold sometimes cannot be met even though they need additional numbering resources because, for example, they have multiple switches within a rate center, but are unable readily to share numbering resources among those switches. Other carriers state that their utilization rate may be artificially low because the calculation does not take into account *intermediate numbers* that the carrier must make available to other carriers but which are unavailable for use by the carrier to provide service to customers.[405]

188. In the *Second Report and Order*, we decline to depart from our rule requiring calculation of the utilization threshold on a rate-center basis.[406] Similarly, we decline to reconsider the manner in which we calculate carrier utilization levels.[407] Notwithstanding these decisions, we recognize the possibility that certain conditions may prevent carriers from meeting the rate center-based utilization threshold when they actually need additional numbers, for example, to meet a specific customer request, although we have limited data on the extent of the problem. We therefore seek comment on the need to establish a "safety valve" apart from the general waiver process to allow carriers that do not meet the utilization threshold in a given rate

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402 47 U.S.C. § 251(f).

403 *See* Letter from Yog R. Varma, Deputy Chief, Common Carrier Bureau, to Ronald Conners, Director, North American Numbering Plan Administrator, dated June 6, 2000 (DA 00-1247); Letter from Yog R. Varma, Deputy Chief, Common Carrier Bureau, to Ronald Conners, Director, North American Numbering Plan Administrator, dated April 7, 1999 (DA 99-663); Letter from Yog R. Varma, Deputy Chief, Common Carrier Bureau, to Ronald Conners, Director, North American Numbering Plan Administrator, dated March 12, 1999 (DA 99-505).

404 *See, e.g.*, AT&T Comments at 2, 5; California Commission Comments at 5; CompTel Comments at 3-4; CTIA Comments at 11; GTE Comments at 9; Maine Commission Comments at 3-4; MediaOne Comments at 6; Missouri Commission Comments at 6; Pennsylvania Consumer Advocate Comments at 16; PCIA Comments at 4; SBC Comments at 9-10; Sprint Comments at 3-4.

405 *See* AT&T Comments at 5; PCIA Comments at 7-11; *see also* 47 C.F.R. § 20.12(B) (requiring CMRS carriers to permit unrestricted resale of its service).

406 *See supra* section III.F.

407 *See supra* section III.E.

center to obtain additional numbering resources.

189. Specifically, we seek data on the extent to which this problem exists (especially empirical data). We also seek comment on possible solutions, including intra-company and intra-rate center pooling or porting of unassigned numbers among switches, as well as the form a possible "safety valve" mechanism might take. For example, we seek comment on whether the NANPA or state commissions should be given the authority to decide on requests for waiver of the utilization threshold requirement in certain narrowly defined instances. Proposals to adopt a "safety valve" should include specific criteria for determining when a waiver is warranted. Further, we seek comment on how any proposed "safety valve" mechanism would be consistent with other numbering optimization measures. Any recommendation to depart from a rate center-based utilization threshold should propose strategies for optimizing the use of numbering resources assigned to switches with low utilization levels.

VIII. PROCEDURAL MATTERS

A. *Ex Parte* Presentations

190. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[408] Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a list of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.[409]

B. Comment Filing Procedures

191. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§1.415 and 1.419, interested parties may file comments on or before February 12, 2001, and reply comments on or before March 5, 2001. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.[410] Comments filed through the ECFS can be sent as an electronic file via the Internet to http://www.fcc.gov/e-file/ecfs.html. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number, which in this instance is CC Docket No. 99-200; 96-98. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

192. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the

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[408] *See* Amendment of 47 C.F.R. 1.1200 et seq. Concerning Ex Parte Presentations in Commission Proceedings, *Repo rt and Order*, 12 FCC Rcd 7348, 7356-57 (1997) (citing 47 C.F.R. § 1.1204(b)(1)).

[409] *See* 47 C.F.R. § 1.1206(b)(2).

[410] *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 Fed. Reg. 24, 121 (1998).

Secretary, Federal Communications Commission, 445 Twelfth Street, S.W. Room TW A325, Washington, D.C. 20554.

193. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules.[411] We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

194. Parties who choose to file paper should submit their comments on diskette. These diskettes should be submitted to Carmel Weathers, Network Services Division, Common Carrier Bureau, 445 Twelfth Street, S.W., Room 6-B153, Washington, D.C. 20554. Such submissions should be on a 3.5-inch diskette formatted in an IBM compatible format using Word for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette.

195. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, N.W., Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 Twelfth Street, S.W. Washington, D.C. 20554.

C. Initial Regulatory Flexibility Analysis

196. As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. § 603, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Notice* and a second IRFA was incorporated into the *Further Notice*. The Commission sought written public comment on the proposals in the *Notice* and the *Further Notice*, including the IRFAs.[412] Appendix B sets forth the Final Regulatory Flexibility Analysis for the *Second Report and Order*.

D. Final Paperwork Reduction Analysis

197. This *Second Report and Order* contains some new information collections, which will be submitted to OMB for approval, as prescribed by the Paperwork Reduction Act.

E. Second Further Notice Initial Paperwork Reduction Act Analysis

198. This *Second Further Notice* contains either a proposed or modified information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on

[411] *See* 47 C.F.R. § 1.49.

[412] 5 U.S.C. § 603(a).

the information collections contained in this *Second Further Notice*, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due at the same time as other comments on this *Second Further Notice*; OMB comments are due 60 days after publication of this *Second Further Notice* in the Federal Register. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall enhance the quality, utility and clarity of the information collected; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

IX. ORDERING CLAUSES

199. Accordingly, IT IS ORDERED that pursuant to Sections 1, 3, 4, 201-205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 153, 154, 201-205, and 251, this SECOND REPORT AND ORDER is hereby ADOPTED and Part 52 of the Commission's rules ARE AMENDED AND ADOPTED as set forth in the attached Appendix A.

200. IT IS FURTHER ORDERED that section 52.15(f)(1)(vi) of the Commission's rules, 47 C.F.R. § 52.15(f)(1)(vi), is effective upon the date of release of this SECOND REPORT AND ORDER. Section 52.15(h) is effective three months from the date of publication in the Federal Register. All other amendments to sections 52.15 through 52.20 of the Commission's rules as set forth in Appendix A are effective thirty days from the date of publication of this SECOND REPORT AND ORDER in the Federal Register. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and/or recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and/or recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the Act, and will go into effect upon announcement of OMB approval in the Federal Register.

201. IT IS FURTHER ORDERED that the establishment of a five year term for the Thousands-Block Pooling Administrator is effective upon the date of adoption of this SECOND REPORT AND ORDER.

202. IT IS FURTHER ORDERED that pursuant to Sections 1, 3, 4, 201-205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 153, 154, 201-205, and 251, this SECOND FURTHER NOTICE OF PROPOSED RULEMAKING is hereby ADOPTED.

203. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this *Second Report and Order and Further Notice of Proposed Rulemaking*, including the Initial and Final Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of Small Business Administration.

204. IT IS FURTHER ORDERED that the Final Regulatory Flexibility Analysis for this SECOND REPORT AND ORDER, pursuant to the Regulatory Flexibility Act, 5 U.S.C. § 604, is contained in Appendix B.

205. IT IS FURTHER ORDERED that the Initial Regulatory Flexibility Analysis for this SECOND FURTHER NOTICE OF PROPOSED RULEMAKING, pursuant to the

Regulatory Flexibility Act, 5 U.S.C. § 603, is contained in Appendix C.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas

Secretary

Appendix A

Final Rules

PART 52 – NUMBERING

Subpart B – Administration

1. The authority citation for Part 52 continues to read as follows:

AUTHORITY: Sections 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. § 151, 152, 154, 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201-05, 207-09, 218, 225-7, 251-2, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201-205, 207-09, 218, 225-7, 251-2, 271 and 332 unless otherwise noted.

2. Section 52.15 is revised to read as follows:

§ 52.15 Central office code administration.

(a) ***

(b) ***

(c) ***

(d) ***

(e) ***

(f) ***

(1) ***

(i) ***

(ii) ***

(iii) ***

(iv) ***

(v) ***

(vi) *Reserved numbers* are numbers that are held by service providers at the request of specific end users or customers for their future use. Numbers held for specific end users or customers for more than 180 days shall not be classified as reserved numbers.

(2) ***

(3) *Data Collection Procedures.*

(i) ***

(ii) Reporting shall be by separate legal entity and must include company name, company headquarters address, Operating Company Number (OCN), parent company OCN(s), and the primary type of business in which the reporting carrier is engaged. The term "parent company" refers to the highest related legal entity located within the state for which the reporting carrier is reporting data.

(iii) ***

(4) ***

(5) ***

(6) ***

(7) ***

(g) *Applications for Numbering Resources.*

(1) ***

(2) ***

(3) *Growth numbering resources.*

(i) ***

(ii) ***

(iii) ***

(iv) The NANPA shall withhold numbering resources from any U.S. carrier that fails to comply with the reporting and numbering resource application requirements established in this part. The NANPA shall not issue numbering resources to a carrier without an OCN. The NANPA must notify the carrier in writing of its decision to withhold numbering resources within ten (10) days of receiving a request for numbering resources. The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. The state commission may affirm or overturn the NANPA's decision to withhold numbering resources from the carrier based

on its determination of compliance with the reporting and numbering resource application requirements herein.

(4) *State Access to Applications.* State commissions shall have access to service provider's applications for numbering resources. State commissions should request copies of such applications from the service providers operating within their states, and service providers must comply with state commission requests for copies of numbering resource applications. Carriers that fail to comply with a state commission request for numbering resource application materials shall be denied numbering resources.

(h) *National Utilization Threshold.* All applicants for growth numbering resources shall achieve a 60% utilization threshold, calculated in accordance with paragraph (g)(3)(ii) of this section, for the rate center in which they are requesting growth numbering resources. This 60% utilization threshold shall increase by 5% on June 30, 2002, and annually thereafter until the utilization threshold reaches 75%.

(i) ***

(j) ***

(k) *Numbering Audits.*

(1) All telecommunications service providers shall be subject to "for cause" and random audits to verify carrier compliance with Commission regulations and applicable industry guidelines relating to numbering administration.

(2) All telecommunications service providers shall be prepared to demonstrate compliance with Commission regulations and applicable industry guidelines at all times. Service providers found to be in violation of Commission regulations and applicable industry guidelines relating to numbering administration may be subject to enforcement action.

5. Section 52.17 is revised to read as follows:

The B&C Agent shall:

(a) Calculate, assess, bill and collect payments for all numbering administration functions and distribute funds to the NANPA, or other agent designated by the Common Carrier Bureau that performs functions related to numbering administration, on a monthly basis;

(b) ***;

(c) ***;

(d) ***

(e) ***

(f) ***

6. Section 52.20 is revised to read as follows:

§ 52.20 Thousands-block number pooling.

(a) ***

(b) ***

(c) *Donation of thousands-blocks.*

(1) All service providers required to participate in thousands-block number pooling shall donate thousands-blocks with ten percent or less contamination to the thousands-block number pool for the rate center within which the numbering resources are assigned.

(2) All service providers required to participate in thousands-block number pooling shall be allowed to retain at least one thousands-block per rate center, even if the thousands-block is ten percent or less contaminated, as an initial block or footprint block.

(3) ***

(d) ***

Appendix B

FINAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by the Regulatory Flexibility Act (RFA),[413] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Notice of Proposed Rulemaking* (*Notice*).[414] The Commission sought written public comment on the proposals in the *Notice*, including comment on the IRFA. In addition, pursuant to 5 U.S.C. § 604, a Final Regulatory Flexibility Analysis (FRFA) was incorporated in the *First Report and Order and Further Notice of Proposed Rulemaking* (*First Report and Order and Further Notice*).[415] Also in the *First Report and Order and Further Notice*, pursuant to 5 U.S.C. § 603, was a second IRFA.[416] The Commission sought written public comment on the proposals in the *First Report and Order and Further Notice*, including comment on the second IRFA. No comments specifically addressing the second IRFA are relevant to the matters addressed in this *Second Report and Order*; however, comments received concerning small business issues in general are summarized below. This present FRFA conforms to the RFA.[417]

A. *Need for, and Objectives of, the Second Report and Order*

2. In the *First Report and Order and Further Notice*, we sought public comment on (a) what specific utilization threshold carriers, not participating in thousands-block number pooling, should meet in order to request growth numbering resources; (b) whether state commissions should be allowed to set rate-center based utilization thresholds based on Commission-established criteria; (c) whether covered commercial mobile radio services (CMRS) carriers should be required to participate in thousands-block number pooling immediately upon expiration of the Local Number Portability (LNP) forbearance period on November 24, 2002, or whether a transition period should be allowed; and (d) how a market-based allocation system for numbering resources could be implemented. We also sought additional information regarding: (a) cost studies that quantify the incremental costs of thousands-block number pooling; (b) cost studies that quantify shared industry and direct carrier-specific costs of thousands-block number pooling; and (c) cost studies that take into account the cost savings associated with thousands-block number pooling in comparison to the current numbering practices that result in more frequent area code changes.

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[413] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[414] Numbering Resource Optimization, *Notice of Proposed Rulemaking*, 14 FCC Rcd at 10433-34 (1999) (*Notice*).

[415] *First Report and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd at 7699-7706, Appendix B (2000) (*First Report and Order and Further Notice*).

[416] *Id.* at 7707-7710, Appendix C.

[417] *See* 5 U.S.C. § 604.

3. In doing so, we sought to (1) ensure that the limited numbering resources of the North American Numbering Plan (NANP) are used efficiently; (2) protect customers from the expense and inconvenience that result from the implementation of new area codes; (3) forestall the enormous expense that will be incurred from expanding the NANP; and (4) ensure that all carriers have the numbering resources they need to compete in the rapidly growing telecommunications marketplace.

4. In this *Second Report and Order and Second Further Notice*, we continue to develop, adopt and implement a number of strategies to ensure that the numbering resources of the NANP are used efficiently, and that all carriers have the numbering resources they need to compete in the rapidly expanding telecommunications marketplace. In particular, we finalize plans implementing thousands-block number pooling, and also seek comment on additional strategies to increase further the efficiency with which numbering resources are used.

B. *Summary of Significant Issues Raised by Public Comments*

5. Commenters expressed support and opposition to several issues addressed in this *Second Report and Order* that concern small entities. Their opinions are summarized below and, where applicable, discussed in Section E. Other comments filed by small entities which are not addressed in this *Second Report and Order*, such as those relating to carriers' cost recovery mechanisms for thousands-block number pooling and developing markets for numbering resources, will be addressed at a later date.

6. *Geographic Splits and All-Services Area Code Overlays.* One commenter described geographic splits as harmful for small businesses because the phone number plays a critical role in the identity of the business.[418] Geographic splits may cause small businesses to lose customers who are unaware of the phone number change. In addition, small businesses may incur additional costs on advertising materials as a result of an area code change.[419] Thus, all-services area code overlays are strongly preferred by commenters because small businesses would not be exposed to such costs.

7. *Audits.* Commenters generally support "for cause" and random audits.[420] The Small Business Alliance strongly supports "for cause", scheduled and random audits given the rapid depletion of numbering resources.[421] Another commenter supports "for cause" audits, but not random audits.[422]

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418 Small Business Alliance for Fair Utility Regulation (Small Business Alliance) Comments at 2.

419 *Id.* at 2.

420 Liberty Telecom Comments at 5; PrimeCo Personal Communications, L.P. (PrimeCo) Comments at 16.

421 Small Business Alliance Comments at 6.

422 PrimeCo Comments at 16.

8. *Mandatory Nationwide Ten-Digit Dialing.* Commenters representing small businesses support mandatory ten-digit dialing.[423] For example, OPASTCO believes that ten-digit dialing would be less disruptive for customers, and technical modifications would be less expensive.

C. *Description and Estimate of the Number of Small Entities To Which Rules Will Apply*

9. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[424] The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[425] The term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities.[426] Under the Small Business Act, a "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[427]

10. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be data the Commission publishes in its *Trends in Telephone Service* report[428] and the data in its *Carrier Locator: Interstate Service Providers Report.*[429] These carriers include, *inter alia*, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone service, providers of telephone exchange service, and resellers.

11. The SBA has defined establishments engaged in providing "Radiotelephone

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[423] *See* Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) Comments at 6; Small Business Alliance Comments at 9.

[424] 5 U.S.C. § 603(b)(3).

[425] 5 U.S.C. § 601(6).

[426] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definitions in the Federal Register." 5 U.S.C. § 601(3).

[427] 15 U.S.C. § 632.

[428] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

[429] *See* FCC, Carrier Locator: Interstate Service Providers (October 2000) (*Locator*). This report lists 4,822 companies that provided interstate telecommunications service as of December 31, 1999 and was compiled using information from FCC Form 499-A Telecommunications Reporting Worksheets filed by carriers. *Id.* at 1.

Communications" and "Telephone Communications, Except Radiotelephone" to be small businesses when they have no more than 1,500 employees.[430] Below, we discuss the total estimated number of telephone companies falling within those two categories and the number of small businesses in each, and attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

12. We have included small incumbent local exchange carriers (LECs) in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."[431] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.[432] We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

13. *Total Number of Telephone Companies Affected.* The U.S. Bureau of the Census (Census Bureau) reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.[433] This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, covered specialized mobile radio providers, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated."[434] For example, a personal communications services (PCS) provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the proposed regulations, herein adopted.

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[430] 13 CFR § 121.201, Standard Industrial Classification (SIC) codes 4812 and 4813. *See also* Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* (1987).

[431] 5 U.S.C. § 601(3).

[432] Letter *from* Jere W. Glover, Chief Counsel for Advocacy, SBA, *to* William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." *See* 15 U.S.C. § 632(a) (Small Business Act); 5 U.S.C. § 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 CFR § 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. *See, e.g., Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket, 96-98, First Report and Order, 11 FCC Rcd 15499, 16144-45 (1996), 61 FR 45476 (Aug. 29, 1996).

[433] U.S. Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1-123 (1995) (Census Bureau).

[434] *See generally* 15 U.S.C. § 632(a)(1).

14. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992.[435] According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons.[436] All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. We do not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small incumbent LECs that may be affected by the proposed regulations, herein adopted.

15. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition for small LECs. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[437] According to the most recent *Telecommunications_Industry Revenue* data, 1,348 incumbent carriers reported that they were engaged in the provision of local exchange services.[438] We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,348 providers of local exchange service are small entities or small incumbent LECs that may be affected by the proposed regulations, herein adopted.

16. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[439] According to the most recent *Trends in Telephone Service* data, 171 carriers reported that they were engaged in the provision of interexchange services.[440] We do not have data specifying the number of these carriers that are

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[435] Census Bureau, *supra*, at Firm Size 1-123.

[436] 13 CFR § 121.201, SIC code 4813.

[437] *Id.*

[438] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

[439] 13 CFR § 121.201, SIC code 4813.

[440] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 171 small entity IXCs that may be affected by the proposed regulations, herein adopted. 19.

17. *Competitive Access Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access service providers (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[441] According to the most recent *Trends in Telephone Service* data, 212 CAP/CLECs carriers and 10 other LECs reported that they were engaged in the provision of competitive local exchange services.[442] We do not have data specifying the number of these carriers that are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 212 small entity CAPs and 10 other LECs that may be affected by the proposed regulations, herein adopted.

18. *Pay Telephone Operators.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[443] According to the most recent *Trends in Telephone Service* data, 615 carriers reported that they were engaged in the provision of pay telephone services.[444] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 615 small entity pay telephone operators that may be affected by the proposed regulations, herein adopted.

19. *Resellers (including debit card providers).* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies.[445] According to the most recent *Trends in Telephone Service* data, 388 toll and 54 local entities reported that they were engaged in the resale of

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[441] 13 CFR § 121.201, SIC code 4813.

[442] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

[443] 13 CFR § 121.201, SIC code 4813.

[444] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

[445] 13 CFR § 121.201, SIC code 4813.

telephone service.[446] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 388 small toll entity resellers and 54 small local entity resellers that may be affected by the proposed regulations, herein adopted.

20. *Wireless Telephony and Paging and Messaging.* Wireless telephony includes cellular, PCS or specialized mobile radio (SMR) service providers. Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees, or to providers of paging and messaging services. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies.[447] According to the most recent *Locator* data, 806 carriers reported that they were engaged in the provision of wireless telephony and 427 companies reported that they were engaged in the provision of paging and messaging service.[448] We do not have data specifying the number of these carriers that are not independently owned or operated, and thus are unable at this time to estimate with greater precision the number that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 732 small carriers providing wireless telephony services and fewer than 137 small companies providing paging and messaging services that may be affected by the proposed regulations, herein adopted.

D. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

21. *Audit Program.* In the *Notice*, we identified auditing as the only legitimate method for verifying the validity and accuracy of utilization data submitted by users of numbering resources.[449] The *Second Report and Order* approves the Commission's proposal to supplement the need verification measures and data collection requirements, adopted in the *First Report and Order*, with a comprehensive audit program. The audits, which include "for cause" and random audits, will be used to verify carrier compliance with federal rules and orders and industry guidelines. In addition, the Commission declines to provide a specific cost recovery mechanism for carrier-specific auditing costs, including costs related to providing documentation to the auditor.[450] We believe that such costs are minimal and do not significantly affect a carrier's ability to compete. Nevertheless, even if such costs impose a burden on small carriers, the benefits of monitoring numbering resource use, thereby enabling us to predict accurately exhaustion of numbering resources, would far outweigh those costs.

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[446] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

[447] 13 C.F.R. § 121.201, SIC code 4813.

[448] *Locator* at 1-2.

[449] *See supra* para. 85 (citing *Notice*, 14 FCC Rcd 10358, para. 83).

[450] *See supra para.* 99.

22. *"For Cause" Auditing Requests.* To request a "for cause" audit, the North America Numbering Plan Administrator (NANPA), the Pooling Administrator or a state commission must draft a written request to the Auditor stating the reason for the request, such as misleading or inaccurate data, as well as supporting documentation evidencing such grounds for the audit. The audits will be performed by the Commission's auditors in the Audits Branch of the Accounting Safeguards Division in the Common Carrier Bureau, or other designated agents.

23. *Numbering Resource Application Materials.* State commissions should request copies of carriers' applications for initial and growth numbering resources directly from the carriers, instead of NANPA or the Pooling Administrator. Such an approach avoids a costly burden on the national numbering administrator while placing only a minimal burden on carriers because small and large carriers merely need to duplicate applications previously submitted to the NANPA. Carriers receiving numbering resources must comply with state requests and will be denied numbering resources for noncompliance.

E. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

24. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[451]

25. *Utilization Threshold.* We require carriers to utilize 60% of their existing inventory of numbers before receiving additional resources within a particular rate center. We find that 60% is an appropriate threshold level because, for example, according to the data reported to NANPA, average industry utilization levels range from approximately 45%-65%. We considered adopting a 50% threshold as an alternative, however, we believe that a 60% utilization threshold will more successfully encourage carriers to use numbers from existing inventories while making such utilization achievable for carriers that need additional numbering resources. The threshold will increase by 5% each year starting June 30, 2002, to a maximum threshold of 75%. We establish these small yearly percentage increases in order to allow carriers, especially small carriers, sufficient time to maximize their utilization levels.

26. *Thousands-Block Number Pooling for Covered CMRS Carriers.* CMRS carriers will be required to participate in thousands-block number pooling once the LNP forbearance period expires on November 24, 2002. No transition period between the CMRS carriers' LNP implementation and participation in mandatory number pooling will be granted because such carriers have almost two years' advance notice of the pooling requirement, and technical

[451] 5 U.S.C. § 603(c).

modifications for pooling and LNP are largely similar. We believe that given the deadline date for compliance, carriers, including small businesses, should have ample time to prepare for these changes without the need for a transition period.

27. *Geographic Splits and All-Services Area Code Overlays.* We considered whether to impose additional rules on state commissions or to leave the development of any rules to the states. We have decided that additional rules or guidelines will not be enumerated at the federal level with regard to geographic splits or all-services overlays. We believe that state commissions should be allowed to choose an appropriate measure, including geographic splits or overlays, for area code relief. However, state commissions must ensure that, in implementing area code relief, carriers receive numbers on an equitable basis and that such numbers are available in a timely and efficient manner. Such an approach allows state commissions to consider the surrounding local circumstances, including the needs of small, local businesses, in deciding whether or how to provide area code relief.

28. In the alternative, we could have mandated state commissions to impose all-services area code overlays as the primary method for area code relief. As discussed in Section B, small businesses that incur additional costs related to geographic splits may have benefited from this alternative proposal. However, the Commission believes that states should have the flexibility to determine the best method for area code relief given their unique knowledge of their geographic region.

29. In addition, we will continue to require ten-digit dialing within and throughout the geographic area covered by an all-services overlay. Such a requirement ensures that no dialing disparity exists to disadvantage competitors, including small businesses.

30. *Audits.* A comprehensive audit program will be established to verify carriers' actual need for numbering resources, in accordance with federal rules and industry guidelines. As discussed in Section B, small entity commenters generally support audits. This audit program, which will consist of "for cause" and random audits, should help to determine whether carriers accurately record data or inconspicuously stockpile numbers. Failure to comply with auditor requests will result in penalties. For small carriers, audits will help to ensure that large businesses are not hoarding numbers or otherwise preventing small carriers from gaining access to numbering resources. In addition, costs should not impose a significant burden on small or large carriers. However, the benefits of being able to rely on carrier data in order to monitor numbering resource use and to predict accurately exhaustion of numbering resources would far outweigh any significant costs incurred by small carriers.

31. *Mandatory Nationwide Ten-Digit Dialing.* At the present time, we decline to adopt nationwide mandatory ten-digit dialing as a method of area code relief. Although commenters, including small entities,[452] supported the adoption of this measure, the burdens of implementation at this time outweigh the benefits. Such a transition would require technical modifications by both large and small carriers, at a potentially expensive cost. In addition, ten-digit dialing adds to consumer inconvenience and confusion. At this time, the need for area code

[452] *See, e.g.*, OPASTCO Comments at 6; Small Business Alliance Comments at 8-9.

relief does not outweigh these burdens on carriers.

32. *Reconsideration of Reserved Number Period.* In the *First Report and Order*, we decided to allow numbers to remain in reserved status for a maximum of 45 days.[453] In this *Second Report and Order*, we extend the period for reserving numbers to a maximum of 180 days.[454] We considered extending the period to 12 months, but we believe that, at the present time, 180 days is a sufficient time period to allow small and large carriers to address their customers' needs while mitigating the effects of such reservations on the depletion of numbering resources. It also allows small and large business customers to plan for implementation and/or expansion of telephone service. For carriers requesting more time to reserve numbers, we are considering a proposal by the NANC to charge a fee for extending the reservation period and are seeking comment on this proposal in the *Second Further Notice.*

33. ***Report to Congress:*** The Commission will send a copy of this *Second Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.[455] In addition, the Commission will send a copy of this *Second Report and Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of this *Second Report and Order* and FRFA (or summaries thereof) will also be published in the Federal Register.[456]

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[453] *First Report and Order*, 15 FCC Rcd at 7587, 7588, paras. 22-23.

[454] *See supra* para. 114.

[455] *See* 5 U.S.C. § 801(a)(1)(A).

[456] *See* 5 U.S.C. § 604(b).

Appendix C

INITIAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by the Regulatory Flexibility Act (RFA),[457] the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this *Second Report and Order, Order on Reconsideration in CC Docket 96-98 and CC Docket 99-200, and Second Further Notice in CC Docket No. 99-200* (*Second Further Notice*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Second Further Notice* provided above in Section VII. The Commission will send a copy of the *Second Further Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[458] In addition, the *Second Further Notice* and the IRFA (or summaries thereof) will be published in the Federal Register.[459]

A. *Need for, and Objectives of, the Proposed Rules*

2. In the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Congress gave the Commission plenary jurisdiction over the North American Numbering Plan (NANP) within the United States.[460] In discharging our authority over numbering resources, we seek to balance two competing goals. First, we must ensure that carriers have the numbering resources that they need to compete and bring new and innovative services to the consumer marketplace. Second, we must ensure that, to the extent possible, numbering resources are used efficiently. Inefficient use of numbering resources speeds the exhaust of area codes, imposing on carriers and consumers alike the burdens and costs of implementing new area codes. It also shortens the life of the NANP as a whole.

3. The Commission is issuing this *Second Further Notice* to seek public comment on (a) the relative advantages of service-specific and technology-specific overlays as opposed to all-services overlays, and the conditions under which service-specific and technology-specific overlays, if adopted, should be implemented in order to promote competitive equity, maximize efficient use of numbering resources, and minimize customer inconvenience; (b) what policies could be implemented at the federal level to reduce the extent to which the rate center system contributes to and/or accelerates numbering resource exhaust; (c) whether carriers should be held accountable when related carriers fail to comply with reporting requirements; (d) whether state commissions should be granted direct, password-protected access to the mandatory reporting data received by the North American Numbering Plan Administrator (NANPA); (e) whether we should

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457 *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

458 *See* 5 U.S.C. § 603(a).

459 *See id.*

460 47 U.S.C. § 251(e)(1).

allow extensions (for a fee or otherwise) on the 180-day reservation period for numbers; (f) what enforcement mechanisms should be applied when a carrier either fails to cooperate with an audit, or fails to resolve identified areas of noncompliance; (g) whether state commissions should be allowed to conduct audits; (h) the development of a market-based allocation system for numbering resources; (i) the costs associated with thousands-block number pooling; (j) whether the Commission should require carriers to acquire Local Number Portability (LNP) capabilities for the purpose of participating in thousands-block number pooling; and (k) whether a "safety valve" should be established for carriers that need additional numbering resources, but fail to meet the utilization threshold in a given rate center.

4. Receiving comments on such matters will help us to examine and consider ways to achieve our objectives to use numbering resources more efficiently in order to mitigate potential customer cost and inconvenience of implementing new area codes and delaying costly expansion of the NANP. For carriers, more numbering resources should encourage competition in a growing telecommunications market.

B. *Legal Basis*

5. The proposed action is authorized under Sections 1, 3, 4, 201-205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 153, 154, 201-205, and 251.[461]

C. *Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply*

6. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[462] The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[463] The term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities.[464] Under the Small Business Act, a "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[465]

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461 47 U.S.C. §§ 151, 153, 154, 201-205, and 251.

462 5 U.S.C. § 603(b)(3).

463 5 U.S.C. § 601(6).

464 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definitions in the Federal Register." 5 U.S.C. § 601(3).

465 15 U.S.C. § 632.

7. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be data the Commission publishes in its *Trends in Telephone Service* report[466] and the data in its *Carrier Locator: Interstate Service Providers Report.*[467] However, in a recent news release, the Commission indicated that there are 4,144 interstate carriers.[468] These carriers include, *inter alia*, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone service, providers of telephone exchange service, and resellers.

8. The SBA has defined establishments engaged in providing "Radiotelephone Communications" and "Telephone Communications, Except Radiotelephone" to be small businesses when they have no more than 1,500 employees.[469] Below, we discuss the total estimated number of telephone companies falling within the two categories and the number of small businesses in each, and we then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

9. We have included small incumbent local exchange carriers (LECs) in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."[470] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.[471] We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

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[466] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

[467] *See* FCC, Carrier Locator: Interstate Service Providers (October 2000) (*Locator*). This report lists 4,822 companies that provided interstate telecommunications service as of December 31, 1999 and was compiled using information from FCC Form 499-A Telecommunications Reporting Worksheets filed by carriers. *Id.* at 1.

[468] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

[469] 13 CFR § 121.201, Standard Industrial Classification (SIC) codes 4812 and 4813. *See also* Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* (1987).

[470] 5 U.S.C. § 601(3).

[471] Letter *from* Jere W. Glover, Chief Counsel for Advocacy, SBA, *to* William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." *See* 15 U.S.C. § 632(a) (Small Business Act); 5 U.S.C. § 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 CFR 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. *See, e.g., Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket, 96-98, First Report and Order, 11 FCC Rcd 15499, 16144-45 (1996), 61 FR 45476 (Aug. 29, 1996).

10. *Total Number of Telephone Companies Affected.* The U.S. Bureau of the Census (Census Bureau) reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.[472] This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, covered specialized mobile radio providers, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated."[473] For example, a personal communications system provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the proposed regulations.

11. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992.[474] According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons.[475] All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. We do not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small incumbent LECs that may be affected by the proposed regulations.

12. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition for small LECs. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[476] According to the most recent *Telecommunications Industry Revenue* data, 1,348 incumbent carriers reported that

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[472] U.S. Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1-123 (1995) (Census Bureau).

[473] *See generally* 15 U.S.C. § 632(a)(1).

[474] Census Bureau, *supra*, at Firm Size 1-123.

[475] 13 CFR § 121.201, SIC code 4813.

[476] *Id.*

they were engaged in the provision of local exchange services.[477] We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,348 providers of local exchange service are small entities or small incumbent LECs that may be affected by the proposed regulations.

13. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[478] According to the most recent *Trends in Telephone Service* data, 171 carriers reported that they were engaged in the provision of interexchange services.[479] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 171 small entity IXCs that may be affected by the proposed regulations.

14. *Competitive Access Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[480] According to the most recent *Trends in Telephone Service* data, 212 CAP carriers and Competitive Local Exchange Carriers (CLEC) and 10 other LECs reported that they were engaged in the provision of competitive local exchange services.[481] We do not have data specifying the number of these carriers that are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 212 small entity CAPs and 10 other LECs that may be affected by the proposed regulations.

15. *Pay Telephone Operators.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest

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[477] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000) .

[478] 13 CFR § 121.201, SIC code 4813.

[479] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

[480] 13 CFR § 121.201, SIC code 4813.

[481] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[482] According to the most recent *Trends in Telephone Service* data, 615 carriers reported that they were engaged in the provision of pay telephone services.[483] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 615 small entity pay telephone operators that may be affected by the proposed regulations.

16. *Resellers (including debit card providers).* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies.[484] According to the most recent *Trends in Telephone Service* data, 388 toll and 54 local entities reported that they were engaged in the resale of telephone service.[485] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 388 small toll entity resellers and 54 small local entity resellers that may be affected by the proposed regulations.

17. *Wireless Telephony and Paging and Messaging.* Wireless telephony includes cellular, personal communications service (PCS) or specialized mobile radio (SMR) service providers. Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees, or to providers of paging and messaging services. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies.[486] According to the most recent *Locator* data, 806 carriers reported that they were engaged in the provision of wireless telephony and 427 companies reported that they were engaged in the provision of paging and messaging service.[487] We do not have data specifying the number of these carriers that are not independently owned or operated, and thus are unable at this time to estimate with greater precision the number that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 732 small carriers providing wireless telephony services and fewer than 137 small

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[482] 13 CFR § 121.201, SIC code 4813.

[483] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

[484] 13 CFR § 121.201, SIC code 4813.

[485] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

[486] 13 C.F.R. § 121.201, SIC code 4813.

[487] *Locator* at 1-2.

companies providing paging and messaging services that may be affected by the proposed regulations.

D. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

18. In this *Second Further Notice* we seek comment on whether to implement a market-based allocation system for numbering resources, and on the types of reporting requirements needed to ensure that secondary markets, if implemented, remain open, competitive and effective. Data from such reports should allow us to determine the success of reallocating numbering resources in secondary markets. We also seek comment on whether carriers should be required to file information on purchase or lease prices as well as the quantities involved in the transaction. Commenters should discuss whether such reporting requirements would pose an unreasonable burden on carriers or NANPA.

E. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

19. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[488]

20. *Service-Specific and Technology-Specific Overlays.* Due to the numbering crisis, we are reconsidering our prohibition against using service-specific and technology-specific overlays as methods for area code relief. The prohibition stems from our belief that these overlays could pose a distinct competitive disadvantage on, for example, carriers with customers who would suffer the cost and inconvenience of surrendering existing numbers, changing over to new numbers, and informing callers of the new numbers. Some commenters to the *Notice* advocated that these overlays would address the demand for numbers as well as receive substantial public support, especially as a means for providing area code relief. We seek comment, especially from small entities, on when and if these overlays should occur and if so, the conditions under which service-specific and technology-specific overlays should be implemented in order to promote competitive equity, maximize the efficient use of numbering resources, and minimize customer inconvenience. In determining appropriate conditions for implementing these overlays, we will examine how such conditions would impact small businesses.

21. *The Rate Center Problem.* In this *Second Further Notice* we seek comment on rate center consolidation. We find that rate center consolidation would be a potential solution for

[488] 5 U.S.C. § 603(c).

relieving number exhaust because the existence of multiple rate centers in each Numbering Plan Area (NPA), as well as demand by most carriers to have numbering resources in each rate center in which they operate, greatly contribute to number exhaust. However, because of the connection between rate centers and the rating and routing of calls, such consolidation may be difficult for carriers, particularly incumbent LECs. Thus, we seek comment on ways to separate the connection between rate centers, call rating and routing. We also seek comment from industry and state commissions regarding the effects of past and present rate center consolidation efforts on carriers as well as the benefits and costs of such consolidation in the top 100 metropolitan statistical areas (MSAs). Such consolidation efforts should significantly impact numbering resources by providing small and large businesses with access to more numbers. In responding to this issue, commenters should also consider alternatives to rate center consolidation, such as extending local calling areas.

22. *Liability of Related Carriers.* In the *First Report and Order* the Commission established new semiannual reporting requirements to obtain more consistent, accurate and complete reporting of number resource utilization and forecast data. We tentatively conclude in this *Second Further Notice* that carriers should, in certain instances, have numbering resources withheld when related carriers fail to comply with our mandatory reporting requirements and, as a result, are denied numbers resources. We seek comment on how to identify the relationships (*i.e.*, the existence of parent and sister companies) among reporting carriers, and what geographic limitations should be placed on those relationships in determining liability.

23. *Fee for Number Reservations.* In this *Second Further Notice*, we seek further comment on the NANC's proposal to allow unlimited reservations of numbers on a month-to-month basis. We seek comment on whether unlimited reservations of numbers are necessary, or, in the alternative, whether there should be a constraint on the time period that numbers can be reserved. Commenters should also discuss the viability and reasonableness of assessing a fee for reserved numbers on carriers and permitting carriers to recover such costs from end users for whom numbers may be reserved. Such a fee could provide appropriate incentives in this context. We encourage comments regarding any unique small business needs related to these alternatives for number reservations, and the disproportionate impact, if any, of fees on small businesses.

24. *Audit Compliance and Enforcement.* In the *Second Report and Order*, we established a comprehensive audit program to verify carrier compliance with federal rules and orders and industry guidelines. In this *Second Further Notice*, we seek comment on what appropriate enforcement mechanisms should be employed to address instances in which a carrier either fails to cooperate with an audit, or fails to rectify identified areas of noncompliance. We tentatively conclude that, at a minimum, carriers that fail to cooperate with the auditor should be denied numbering resources. The imposition of penalties would encourage both large and small carriers to comply with auditors' requests.

25. *State Authority to Perform Audits.* In addition to maintaining a national audit program, we seek comment on whether state commissions, given their extensive involvement in numbering issues, should be permitted to conduct independently "for cause" and random audits of carrier data. Small businesses should comment, in particular, on whether the potential existence of differing state audit standards would be a significant cost burden for them.

26. *Market for Numbering Resources.* In this *Second Further Notice* we seek comment on whether and how a market-based number allocation system should be implemented. Proper implementation of this system should encourage the efficient use of numbering resources by carriers as well as be competitively neutral, especially towards small businesses. The system's benefits (*i.e.*, more efficient use of numbers) should outweigh carriers' concerns over costs. We believe that alternatives to this system (*i.e.*, allocating numbers for free) would not promote the efficient use of numbers as effectively. Commenters are encouraged to propose ways to implement such a system so as to minimize any unfavorable impact on small entities.

27. *Recovery of Pooling Shared Industry and Direct Carrier Specific Costs.* We determined in this *Second Further Notice* that we still do not possess sufficient cost data to establish a cost recovery mechanism at this time. We intend to establish a national cost recovery mechanism after the national pooling roll-out schedule is finalized, because the timing and amount of pooling costs should be more readily ascertainable at that time. In the interim, we seek further comment and cost studies quantifying shared industry and direct carrier-specific costs of thousands-block number pooling. Such cost data should assist us in ascertaining an appropriate cost recovery mechanism for small carriers.

28. *Mandating LNP Capability for Thousands-Block Number Pooling.* In the *First Report and Order*, we adopted thousands-block number pooling for local number portability (LNP) capable carriers, concluding that commercial mobile radio services carriers as well as non-LNP capable wireline carriers must participate in pooling once they become LNP capable. We seek comment on whether we should require carriers to become LNP capable for the purpose of participating in thousands-block number pooling. In the alternative, we seek comment on whether carriers can utilize other network architecture to increase participation in thousands-block number pooling, or at least central office code sharing, without having fully deployed LNP. In examining alternatives to improve the efficient use of numbering resources, we request comments from all carriers, but especially small businesses that may become disadvantaged by a requirement to become LNP-capable.

29. *Waiver of Growth Numbering Resource Requirement.* Currently, carriers may obtain a waiver of growth numbering resource requirements by demonstrating their need for additional numbering resources. We seek comment in this *Second Further Notice* on whether a "safety valve" should be established for carriers that need additional numbering resources, even though they fail to meet the utilization threshold in a given rate center. In particular, we request data (especially empirical data) indicating the extent to which this problem exists. In addition, we seek comment on, among other things, the form of a "safety valve" mechanism and specific criteria that would warrant a waiver. Commenters are encouraged to provide data demonstrating small business' need for a "safety valve" mechanism as well as specific criteria for granting a waiver that would impose a minimal burden on small entities.

F. *Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules*

30. None.

Appendix D

List of Parties

I. Numbering Resource Optimization Notice of Proposed Rulemaking

Comments - In addition to the parties listed below, the Commission also considered the comments, including e-mails, postcards and other correspondence, from over 3,000 citizens in this matter.

1. Adamson, Grier
2. Ad Hoc Telecommunications Users Committee (Ad Hoc)
3. AirTouch Communications, Inc. (AirTouch)
4. Ameritech
5. Arsinow, Richard A.
6. Arvanitas, Ms. Peggy
7. Association for Local Telecommunications Services (ALTS)
8. AT&T Corporation (AT&T)
9. Bartel, Richard C., and Communications Venture Services, Inc. (Venture Services)
10. Bell Atlantic
11. BellSouth Corporation (BellSouth)
12. Burrows Resource Group Inc. (BRG)
13. Cablevision Lightpath, Inc. (Cablevision)
14. California Public Utilities Commission and the People of the State of California (California Commission)
15. Campbell, Bill - California Assemblyman 71st District, letter to Congressman James E. Rogan
16. Carlson, Douglas F.
17. Cellular Telecommunications Industry Association (CTIA)
18. Chambers, Rose A.
19. Cincinnati Bell Telephone Company (CinBell)
20. Citizens Utility Board, People of the State of Illinois, Cook County State's Attorney's Office, and the City of Chicago (Citizens Util. Bd., et al.)
21. Cohen, Marsha N.
22. Colpitts, Robert M., Jr.
23. Colorado Public Utilities Commission (Colorado Commission)
24. Connect Communications Corporation (Connect)
25. Connecticut Department of Public Utility Control (Connecticut Commission)
26. Cox Communications, Inc. (Cox)
27. Eyre, Richard
28. Florida Public Service Commission (Florida Commission)
29. Gethard, Elaine Meitus
30. GTE Service Corporation (GTE)
31. Illinois Chapter of National Emergency Number Association (INENA)
32. Joint Comments of Choice One Communications, Inc., and GST Telecommunications, Inc. (Choice One and GST)
33. Joint Comments of Centennial Cellular Corporation; CenturyTel Wireless, Inc.;

Thumb Cellular, Limited Partnership; and Trillium Cellular Corp. (Centennial, et al.)
34. Joint Comments of Texas Office of Public Utility Counsel and National Association of State Utility Consumer Advocates (Texas Public Util. Counsel and NASUCA)
35. Level 3 Communications, Inc. (Level3)
36. Liberty Telecom LLC (Liberty)
37. Maine Public Utilities Commission (Maine Commission)
38. Maydak, Keith
39. Massachusetts Department of Telecommunications and Energy (Massachusetts Commission)
40. MCI WorldCom, Inc. (WorldCom)
41. MediaOne Group, Inc. (MediaOne)
42. Minnesota Department of Public Service (Minnesota Commission)
43. Missouri Public Service Commission (Missouri Commission)
44. Mitretek Systems, Inc.
45. Mobility Canada
46. Mohlenbrok, Gerald
47. National Association of Regulatory Utility Commissioners (NARUC)
48. National Emergency Number Association (NENA)
49. National Exchange Carriers Association (NECA)
50. National Telephone Cooperative Association (NTCA)
51. Neill, Professor Bill
52. New Hampshire Public Utilities Commission (New Hampshire Commission)
53. New Jersey Board of Public Utilities (New Jersey Commission)
54. Newman, Vicky
55. New York State Department of Public Service (New York Commission)
56. Nextel Communications, Inc. (Nextel)
57. Nextlink Communications, Inc. (Nextlink)
58. Nilsen, Beate
59. North American Numbering Plan Administrator (NANPA)
60. North American Numbering Council (NANC)
61. North Carolina Utilities Commission (North Carolina Commission)
62. Omnipoint Communications, Inc. (Omnipoint)
63. Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)
64. Paging Network, Inc.
65. Pennsylvania Office of Consumer Advocate and NASUCA (Pennsylvania Consumer Advocate and NASUCA)
66. Pennsylvania Public Utility Commission (Pennsylvania Commission)
67. Personal Communications Industry Association (PCIA)
68. Prichard, Douglas R. City of Rolling Hills Estates City Manager
69. PrimeCo Personal Communications, L.P. (PrimeCo)
70. Public Service Commission of Wisconsin (Wisconsin Commission)
71. Public Utilities Commission of Ohio (Ohio Commission)
72. Public Utility Commission of Texas (Texas Commission)
73. Qwest Communications Corporation (Qwest)
74. Ravizza, Norman
75. RCN Telecom Services, Inc. (RCN)

76. REC Networks
77. Rogers Cantel, Inc.
78. Saco River Telegraph & Telephone Co.
79. Salva, Carol
80. SBC Communications, Inc. (SBC)
81. Small Business Alliance for Fair Utility Regulation (Small Business Alliance)
82. Solnit, Kenneth T.
83. Sprint Corporation (Sprint)
84. Sullivan, Mr. Michael A.
85. Texas Advisory Commission on State Emergency Communications, et al.
86. Texas Office of Public Utility Counsel
87. Time Warner
88. Thro, Dennis
89. United States Telephone Association (USTA)
90. U S West Communications, Inc. (U S West)
91. Virginia State Corporation Commission, Division of Communications
92. VoiceStream Wireless Corp. (VoiceStream)
93. WinStar Communications, Inc. (WinStar)
94. Yablon, Gilbert (Smart Dialing Systems)
95. Zamzow, Norma

Reply Comments

96. Ad Hoc
97. AirTouch
98. Allegiance Telecom, Inc. (Allegiance)
99. Ameritech
100. ALTS
101. Association of Public-Safety Communications Officials-International, Inc. and the National Emergency Number Association (APCO and NENA)
102. AT&T
103. Bell Atlantic
104. BellSouth
105. California Commission
106. CTIA
107. CenturyTel, Inc.
108. CinBell
109. Colorado Numbering Task Force
110. Competitive Telecommunications Association (CompTel)
111. Connect Communications Corporation (Connect)
112. Cook County State's Attorney's Office
113. Cox
114. Florida Commission
115. GTE
116. INENA
117. Choice One and GST
118. Level 3

119. Levine, Richard
120. Maine Commission
121. WorldCom
122. MediaOne
123. NENA
124. NECA
125. NTCA
126. Neill, Professor Bill
127. New York Commission
128. Nextel
129. Nextlink
130. Omnipoint
Pennsylvania Consumer Advocate and NASUCA
131. Pennsylvania Commission
132. PCIA
133. RCN
134. SBC
135. Small Business Alliance
136. Sprint
137. Telcordia
138. Teligent, Inc. (Teligent)
139. USTA
140. WinStar
141. Wisconsin Commission

II. Numbering Resource Optimization First Report and Order and First Further Notice of Proposed Rulemaking

A. Further Notice Comments

1. Ad Hoc
2. AT&T
3. ALTS
4. BellSouth
5. Bell Atlantic
6. California Commission
7. CTIA
8. 2nd Century Communications, Inc. (2nd Century)
9. CompTel
10. Cox
11. GTE
12. General Services Administration (GSA)
13. State of Illinois, Department of Central Management Services
14. Maine Commission
15. MediaOne
16. Joint Comments of Midvale Telephone Exchange, Inc., Northeast Louisiana Telephone

Company, Inc., Interstate Telecommunications Cooperative, Inc., and Radio Paging Service
17. Missouri Commission
18. Joint Comments of the National Exchange Carrier Association and National Telephone Cooperative Association (Joint Comments of NECA and NTCA)
19. New Hampshire Commission
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70. California Commission
71. Cal-Ore Telephone Co.
72. CTIA
73. CenturyTel, Inc.
74. CinBell
75. Electric Lightwave, Inc.
76. Florida Commission
77. General Communication Inc. (GCI)
78. Intermedia Communications Inc.
79. Iowa Telecom
80. Kassem, Ahmed (U. of Illinois – Chicago)
81. KMC Telecom
82. Maine Commission
83. Metropolitan Government of Nashville & Davidson County
84. NASNA
85. NENA
86. NTCA
87. Nextlink
88. OPASTCO
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90. PCIA
91. Puerto Rico Telephone Co., & Celulares Telefonica
92. Qwest
93. RCA
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III. Pennsylvania Numbering Order

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1. Pennsylvania Commission

LEXSEE 17 FCC RCD 252

In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability

CC Docket No. 99-200; CC Docket No. 96-98; CC Docket No. 95-116

FEDERAL COMMUNICATIONS COMMISSION

17 FCC Rcd 252; 2001 FCC LEXIS 6954; 25 Comm. Reg. (P & F) 585

RELEASE-NUMBER: FCC 01-362

December 28, 2001 Released; Adopted December 12, 2001

ACTION: [**1] THIRD REPORT AND ORDER AND SECOND ORDER ON RECONSIDERATION IN CC DOCKET NO. 96-98 AND CC DOCKET NO. 99-200

JUDGES:

By the Commission: Commissioner Martin issuing a separate statement

OPINION:

[*254] **I. INTRODUCTION**

1. In this *Third Report and Order* and *Second Order on Reconsideration* in CC Docket No. 99-200, we continue efforts to maximize the efficiency with which numbering resources in the North American Numbering Plan (NANP) are utilized. n1 By working with state commissions and the telecommunications industry, the Commission has been able to refine its numbering administration policies and processes, resulting in a substantial increase in the estimated life of the NANP as projected just two years ago. n2 Our efforts have also contributed to the dramatic reduction in central office code assignments and area code relief efforts over the last year. n3 With this Order, we aim to build upon this success to ensure that the limited numbering resources of the NANP continue to be used efficiently so that the NANP does not exhaust prematurely, and to [*255] ensure that all carriers have the numbering resources they need to compete in the telecommunications marketplace. Specifically, we address issues raised [**2] in the *Second Further Notice* n4 and several petitions for reconsideration and/or clarification of the *First* or *Second Report and Orders*. We also clarify, on our own motion, certain aspects of our numbering resources optimization rules and local number portability requirements.

n1 The NANP was established over 50 years ago by AT&T to facilitate the expansion of long distance calling. It is the basic numbering scheme for the United States. Canada, and most Caribbean countries. The NANP is based on a 10-digit dialing pattern in the format NXX-NXX-XXXX where "N" represents any digit 2-9 and "X" represents any digit 0-9. The first three digits represent the numbering plan area (NPA), commonly known as the area code. The second three digits represent the central office, or NXX code, commonly referred to as an exchange. The last four digits represent the subscriber line number.

n2 In 1999, the North American Numbering Plan Administrator (NANPA) estimated that NANP exhaust was likely to occur in 2006 - 2012, and the North American Numbering Council (NANC) estimated that NANP exhaust was likely to occur in 2005 - 2016. In its recent study, the NANPA estimates that NANP exhaust is likely to occur well beyond 2020. *See* NANPA Report to the NANC, October 16-17, 2001, p. 8. The NANPA

estimates that with the introduction of thousands-block number pooling NANP exhaust is not likely to occur before 2025 - 2034. *Id.* at p. 9. [**3]

n3 The NANPA reported that the net central office code assignments from January through October 2001 averaged 413 per month as compared to 2172 codes per month for the same period in 2000. *See* NANPA Report to the NANC, November 27-28, 2001, p 2.

n4 Numbering Resouce Optimization, *Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and in CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200, 16 FCC Rcd 306 (2000)* (*Second Report and Order*).

2. *Overview.* In Section III, we make several decisions to address national thousands-block number pooling administration. Specifically, we decline to extend the pooling requirement to paging carriers; decline to extend pooling requirements to non-local number portability (LNP) capable carriers outside of the largest 100 Metropolitan Statistical Areas (MSAs) that have not received a request to deploy LNP from a competing carrier: and decline to alter the implementation date for covered Commercial Mobile Radio Service (CMRS) carriers to participate in pooling.

3. We also address the federal cost recovery for national thousands-block number [**4] pooling. For price cap local exchange carriers (LECs), we conclude that many of the costs associated with thousands-block number pooling are ordinary costs for which no additional special recovery is appropriate. To the extent that price cap carriers can demonstrate they have incurred extraordinary costs resulting from the implementation of the federally mandated thousands-block number pooling program, these extraordinary costs will be recovered through an exogenous adjustment to interstate access charges. We will allow, but not require, incumbent LECs (ILECs) subject to rate-of-return regulation to recover their carrier-specific costs directly related to thousands-block number pooling implementation through interstate access charges. Carriers not subject to rate regulation, such as competitive LECs (CLECs) and CMRS providers, may recover their carrier-specific costs directly related to implementation of thousands-block number pooling in any lawful manner consistent with their obligations under the Communications Act of 1934, as amended (the Act). Finally, we reaffirm that states that have conducted pooling trials should establish cost recovery mechanisms for costs incurred by carriers [**5] participating in such trials, and we encourage those states that have not yet established a mechanism to use the model established by the Commission for national pooling cost recovery.

4. In Section IV, we reaffirm that the Months-to-Exhaust (MTE) requirement for carriers is an important element in ensuring that numbering resources are used efficiently and that carriers have an adequate supply of resources to serve customers. Furthermore, we find that the utilization threshold established in the *Second Report and Order* is reasonable. We also decline to exempt pooling carriers from the utilization threshold. Finally, we establish a safety valve mechanism to allow carriers that do not meet the utilization threshold in a given rate center to obtain additional numbering resources, and delegate authority to state commissions to hear claims that the safety valve should be applied when the NANPA or the Pooling Administrator denies a specific numbering resource request.

5. In Section V, we revisit the prohibition of service-specific and technology-specific [*256] overlays. We conclude that we should lift the ban on such overlays, as several states have requested, and that authority to implement [**6] this area code relief option will be granted on a case-by-case basis.

6. In Section VI, we address other numbering resource optimization measures. First, we find that carriers that are found, through an audit, to violate our numbering requirements, or that fail to cooperate with the Commission staff to conduct either a "for cause" or random audit, should be denied numbering resources in certain instances. We reaffirm state commissions' authority to conduct independent audits that are not duplicative of the national audit program. We also reaffirm our conclusion that the 180-day reservation period is sufficient and find that fees to extend the reservation period are not appropriate at this time. We also clarify, on our own motion, that the Commission intended to require all carriers in the top 100 MSAs to become LNP capable, not just those who receive a request. We further clarify that LNP is required in the top 100 MSAs identified at the time of this mandate, as well as new MSAs identified in all subsequent top 100 MSA lists. n5 Finally, we find that state commissions should be allowed password-protected access to the NANPA database for data pertaining to NPAs located within their [**7] state.

n5 *See* List from the 1990 U.S. Census reports.

II. BACKGROUND n6

n6 For a more complete summary of the history of this proceeding *see* Numbering Resource Optimization. *Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7577-82,* paras. 1-9 (2000) (*First Report and Order*) and *Second Report and Order, 16 FCC Rcd at 310-14,* paras. 4-17.

7. The proliferation of area codes in the United States between 1997 and 1999, n7 coupled with the staggering estimated cost of expanding the current NANP, n8 led the Commission, in 1999, to initiate the Numbering Resource Optimization proceeding. n9 Since that time, new area code implementation has declined. n10 This is due in part to the Commission's efforts to address two of the major factors that contribute to numbering resource exhaust: (1) the absence of regulatory, industry, or economic control over requests for numbering resources; and (2) and the allocation of numbering resources in blocks of 10,000, irrespective of the carrier's actual need for new numbering resources. n11 By implementing a system of mandatory numbering resource [**8] [*257] utilization and forecast reporting, and thousands-block number pooling, we have directly, and successfully, attacked these major drivers of numbering exhaust.

n7 In the ten year period, 1984 to 1994, nine new area codes were implemented. Commencing in 1997, new area code activations increased to 32 new area codes activated in 1997, 24 activated in 1998, and 22 activated in 1999.

n8 In 1999, some industry members suggested that the cost to expanding the NANP by adding one or more digits could be between S50 to S150 billion. *See* NANC Meeting Minutes, February 18-19, 1999 at 13.

n9 Numbering Resource Optimization, *Notice of Proposed Rulemaking, 14 FCC Rcd 10322 (1999)* (*Notice*).

n10 In 2000, 14 new area codes were activated, and approximately 20 new area codes are expected to be activated by December 2001. In contrast, 46 new area codes were activated during 1998-1999.

n11 In the *Notice*, the Commission recognized that other factors driving premature NANP and area code exhaust include: (1) multiple rate centers in an NPA and the demand by most carriers to have at least one NXX code per rate center: and (2) the increased demand for numbering resources by new entrants and new technologies. *Notice* at 10328-29, para. 15. [**9]

8. In past orders in this docket, the Commission has adopted the following measures: a mandatory utilization and forecast data reporting requirement; a uniform set of categories of numbers for which carriers must report their utilization; a utilization threshold to increase carrier accountability and incentives to use numbers efficiently; a single system for allocating numbers in blocks of 1,000, rather than 10,000 (thousands-block number pooling); a plan for national rollout of thousands-block number pooling: cost recovery principles for thousands-block number pooling that are similar to those adopted for LNP; reclamation requirements to ensure that unused numbers are returned to the NANP inventory for assignment to other carriers; sequential numbering, where carriers are required, to the extent possible, to first assign numbering resources within thousands-blocks; and an auditing program to verify carrier compliance with the Commission's rules. n12

n12 *See generally, First Report and Order* and *Second Report and Order.*

9. Also, the Commission has mandated that CMRS providers begin participating in thousands-block number pooling by November 24, 2002. n13 The allocation [**10] of numbers in blocks of 10,000 has been a significant driver of premature NPA and NANP exhaust, primarily because many telephone numbers become stranded and, thus, unusable. Thousands-block number pooling allows resources to be allocated in smaller blocks, and thus frees up stranded numbers. Once CMRS providers are capable of participating in pooling, even greater efficiencies will be achieved. Carriers will have greater flexibility to port numbers between switches and even outside of rate centers. n14

n13 This coincides with an earlier mandate that CMRS become LNP capable by that date. Cellular Telecommunications Industry Association's Petition for Forebearance from Commercial Mobile Radio Services Numbering Portability Officiations. *Memorandum Opinion and Order, 14 FCC Rcd 3092 (1999)* (*CMRS LNP Forebearance Order*).

n14 *See* LNPA Working Group Status Report to NANC. October 16, 2001, PIM 11.

10. Although the 1996 Act gave the Commission plenary jurisdiction over numbering resources, numbering resource management has been a cooperative effort involving the Commission, the North American Numbering Council (NANC), which is the Commission's [**11] federal advisory committee on numbering issues, state commissions, and industry. The NANC has made recommendations to the Commission on several numbering resource optimization measures. n15 States, for example, have been delegated authority to make area code relief decisions, establish utilization thresholds different from the national threshold, order sequential number assignments, reclaim unused NXX codes, and implement code sharing trials. Additionally, the Commission and the Common Carrier Bureau have granted over 30 state petitions for delegated authority to institute thousands-block pooling trials, establish rationing procedures for six months following area code relief, and address requests for numbering [*258] resources outside of the rationing process. The industry has played an active role as well by developing guidelines through industry consensus, which provide technical guidance to the industry on implementing numbering policies adopted by the Commission. n16 The NANC also continues to analyze the benefits of various numbering resource optimization measures, including rate center consolidation, individual number pooling, and unassigned number porting. n17 As stewards of the [**12] NANP for the United States, we expect to continue to work closely with state commissions, the NANC, the industry, as well as with other NANP countries, to monitor the progress that has been made in optimizing the use of NANP resources.

n15 *See* Common Carrier Bureau Seeks Comment on North American Numbering Report Concerning Telephone Number Pooling and Optimization Measures. *Public Notice*, DA 98-2265, NSD File No. L-98-134 (rel. No. 6. 1998).

n16 Numbering guidelines are developed by the Industry Numbering Committee (INC) and can be found at www.ATIS.org.

n17 *See* NANP Expansion Optimization Issues Management Group Status Report to NANC, October 16, 2001.

III. NATIONAL THOUSANDS-BLOCK NUMBER POOLING

A. Pooling Administration

11. On June 18, 2001, the Commission announced the selection of NeuStar. Inc, (NeuStar) as the national thousands-block number Pooling Administrator. n18 As national Pooling Administrator, NeuStar is responsible for administering thousands-block number pools by assigning, managing, forecasting, reporting, and processing data that will allow service providers in areas designated for thousands-block number pooling to receive telephone [**13] numbers in blocks of 1,000. NeuStar, which also currently serves as the NANPA, has been awarded a one-year contract with four one-year options (for a potential term of five years) to be exercised at the discretion of the Commission. National thousands-block number pooling is scheduled to begin in March 2002. Currently, 107 pools in 26 states are up and running. n19

n18 Federal Communications Commission's Common Carrier Bureau Selects NeuStar, Inc. as National Thousands-Block Number Pooling Administrator. *Press Release*, CC Docket 99-200 (June 18, 2001). NeuStar was named the Pooling Administrator effective June 15, 2001.

n19 *See* www.nanpa.com. Mandatory pooling trials that have commenced before March 15, 2002 are being transitioned into the national pooling administration program prior to national pooling rollout.

12. *National Pooling Rollout Schedule.* As directed by the Commission, NeuStar developed and proposed a national thousands-block number pooling schedule using the criteria established by the Commission in the *First Report and Order*. Specifically, NeuStar gave primary consideration to the following: NPAs that are located in the largest 100

MSAs: n20 [**14] NPAs in jeopardy; and NPAs with a projected life of at least one-year. n21 In deciding when a pool for each qualifying NPA would be established, NeuStar also followed the Commission's directive to implement national pooling by quarter; for each three-month period, three pools in each of the 7 Number Portability Administration Center (NPAC) regions (for a total of 21 pools) would be [*259] initiated. n22

n20 We clarify, on our own motion, in this Order that for the purpose of the rollout schedule, the top 100 MSAs are those listed at the end of this Order. *See infra* at Section VI.C and Appendix D.

n21 *First Report and Order, 15 FCC Rcd at 7647-48,* paras. 161-162.

n22 *Id. at 7645-46, para. 159.*

13. On October 17, 2001, the Commission issued a Public Notice seeking comment on the proposed national thousands-block number pooling rollout schedule. State commissions seeking to opt into, or out of, the rollout schedule, or wishing to substitute an alternative NPA for the NPA listed in the rollout schedule, must make such requests in response to the Public Notice within the established initial comment cycle. n23 Upon review [**15] of the comments and requests submitted, the Commission will publish the final rollout schedule. n24 States seeking to opt out of the rollout schedule on a temporary basis should inform NeuStar of their decision three months prior to the scheduled rollout date for the applicable NPA. n25 In addition, to serve the needs of states that believe that pooling would be beneficial in an NPA that is not located in one of the largest 100 MSAs, the Common Carrier Bureau will consider petitions from state commissions to opt into the rollout schedule on a case-by-case basis. Finally, state commissions may petition to substitute an alternative NPA for an NPA listed in the rollout schedule, if the substitute NPA meets the eligibility criteria as set forth above. n26

n23 The Common Carrier Bureau Seeks Comment on the National Thousands-Block Number Pooling Rollout Schedule, *Public Notice*, CC Docket 99-200. DA 01-2419 (rel. October 17, 2001) (*Thousands-Block Number Pooling Public Notice*).

n24 The schedule will include all NPAs in the top 100 MSAs.

n25 *First Report and Order, 15 FCC Rcd at 7648, para. 163.*

n26 *See id. at 7649, para. 165.* Such requests should also be made not less than three months prior to the scheduled rollout date, to ensure that the Pooling Administrator has sufficient time to prepare for implementation. [**16]

B. Thousands-Block Number Pooling for Non-LNP Capable Carriers

14. Under the Commission's current rules, certain carriers are exempted from pooling requirements, e.g., paging carriers, and carriers outside of the largest 100 MSAs that have not received a request to deploy LNP from a competing carrier. In the *Second Further Notice*, the Commission sought comment about whether it would be appropriate to extend pooling requirements to these carriers to further promote the efficient use of numbering resources. The Commission sought comment on whether the incremental number optimization benefits of requiring these carriers to participate in pooling would outweigh the associated costs.

15. Several state commissions support expanding pooling requirements, arguing that requiring all carriers to participate in pooling - regardless of their LNP status - would greatly enhance the effectiveness of pooling. n27 Several suggest that the Commission should delegate authority to states to determine for themselves, based on their own individual circumstances, whether to require non-LNP capable carriers to pool. n28 Paging carriers, carriers outside of the [*260] largest 100 MSAs, and other industry [**17] commenters, on the other hand, oppose extending pooling requirements and assert that the costs of implementing pooling would far outweigh any potential number optimization benefits. n29

n27 Iowa Utilities Board Comments at 4; Maine PUC Comments at 7; New York State Department of Public Service Comments at 7; Ohio PUC Comments at 27; Pennsylvania PUC Comments at 11.

n28 State Coordination Group Comments at 8.

n29 BellSouth Comments at 30; Cingular Reply Comments at 13-16; Metrocall Comments at 3-7; NTCA Comments at 2-4; OPASTCO Comments at 6-7; PCIA Comments at 10-11; USTA Comments at 4-5; Verizon Wireless Comment at 16-17.

1. Paging Carriers

16. Based on the record before us, we decline to extend pooling requirements to paging carriers. n30 We are persuaded by paging carriers' assertions that the costs of implementing pooling would outweigh the potential numbering resource savings. In the *Second Further Notice*, we recognized that if the Commission were to expand pooling requirements, non-LNP capable carriers would be obligated to implement the common technological platform that is used to support both LNP and number pooling. Paging carriers assert that they would [**18] face certain unique technical challenges to establish pooling capability. Specifically, paging carriers would have to convert to signaling system 7 (SS7) signaling to be able to properly route calls. n31 Currently, paging carriers use signaling systems such as multi-frequency or dual-tone multi-frequency signaling. n32 Evidence from the record suggests that paging carriers have used these less sophisticated systems because paging switches do not originate traffic and because many of the enhanced features of SS7 signaling are unnecessary for the provision of messaging services. n33 To be able to participate in pooling, paging carriers would need to interconnect to other carriers using SS7 signaling. n34 We agree with paging carriers that the costs of converting to SS7 signaling would be significant. n35

n30 We also decline to extend pooling requirements to other messaging services and CMRS providers who are specifically excluded from LNP requirements. See Telephone Number Portability. *First Report and Order and Further Notice of Proposed Rulemaking. 11 FCC Rcd 8352, 8433-34 para. 156 (1996)* (*LNP First Report and Order*).

n31 Metrocall Comments at 3-4; Verizon Comments at 16. [**19]

n32 Verizon Comments at 16.

n33 Metrocall Comments at 4; Verizon Comments at 16.

n34 Metrocall Comments at 3-4; Verizon Comments at 16.

n35 Metrocall Comments at 4; Verizon Comments at 16. Metrocall states that the cost of converting to SS7 signaling necessary for both porting and pooling would be enormous and requiring implementation could threaten carriers' economic well being. Specifically, Metrocall indicates that cost for the first year of installing and paying subscription fees for SS7 signaling would be approximately three million dollars, excluding usage fees. After the first year. Metrocall indicates that the recurring annual costs would be one and a half million dollars plus usage fees. *See* Metrocall Comments at 4-5.

17. There is insufficient evidence to conclude that the incremental number optimization benefits of requiring these carriers' participation in pooling would outweigh the associated costs. Evidence from the record indicates that the paging market is mature, and that paging carriers' [*261] demand for numbering resources has leveled off and is unlikely to increase significantly in the future. n36 Instead, it appears more likely that paging carriers [**20] will serve customers through existing numbers made available to them through churn rather than requesting significant amounts of additional numbers. n37 Moreover, recent data shows that paging carriers, as a whole, use relatively few numbering resources. The June 30, 2001 Numbering Resource Utilization data shows that of the over 115,000 NXX codes reported by all carriers only 5,813 of those codes, or slightly over 5%, were held by paging carriers. n38 In light of these conditions, we conclude that paging carriers' participation in pooling would not result in significant savings of numbers.

n36 Metrocall Comments at 5; PCIA Comments at 10; Verizon Comments at 17. We note that the June 30, 2001, Numbering Resource Utilization data shows an increase in the total number of NXX codes held by paging carriers as compared with the number of NXX codes held by paging carriers as of December 2000. This increase, however, is most likely attributable to the increased number of paging carriers reporting numbering resources in the most recent survey. For example, TSR Wireless, one of the largest paging carriers, did not

report any NXX code holdings in December but reported in June that it held 544 NXX codes. *See* FCC. Common Carrier Bureau. Industry Analysis Division. *Numbering Resource Utilization in the United States as of June 30, 2001*. Table 1 (November 2001) (*November 2001 Numbering Resource Utilization Report*). This report may be downloaded (filename; utilizationjune2001.pdf) from the FCC-State Link Internet site at <http://www.fcc.gov.ccb.stats>. [**21]

n37 PCIA Comments at 10; Verizon Comments at 17.

n38 *See November 2001 Numbering Resource Utilization Report* at Table 1.

18. Although we do not extend pooling requirements to paging carriers at this time, we expect paging carriers to contribute to other numbering resource conservation efforts. Specifically, we expect paging carriers to return unused NXX codes and to comply with the sequential number assignment rules discussed in the *First Report and Order*. n39 If we find that paging carriers are not contributing to these numbering resource conservation efforts, we may consider extending pooling requirements to these carriers in the future.

n39 *First Report and Order, 15 FCC Rcd at 7684, para. 244.*

2. Non-LNP Capable Carriers Outside of the Largest 100 MSAs

19. For similar reasons, we also decline to extend pooling requirements to non-LNP capable carriers outside of the largest 100 MSAs that have not received a request to deploy LNP from a competing carrier. There is insufficient evidence in the record to conclude that requiring these carriers to participate in pooling would result in significant numbering resource savings. Many [**22] of the carriers outside of the largest 100 MSAs operate in rate centers where there are few, if any, competing carriers. Specifically, data from the LERG shows that in the approximately 2,012 rate centers in the 180 MSAs beyond the largest 100, approximately 1,320 are rate centers where there are no competing service providers and approximately 300 are rate centers where there is only one competing service provider. n40 We agree with commenters who argue that it would be unreasonable to require non-LNP capable carriers in these areas to establish pooling [*262] capability because they would have few, if any, carriers with which to pool. n41 In addition, there is insufficient evidence in the record for us to conclude that the non-LNP capable carriers operating outside of the largest 100 MSAs, viewed as a whole, hold significant amounts of numbering resources compared to carriers in larger metropolitan areas. Because these carriers hold relatively small amounts of numbering resources, there would be little benefit, at least from a nationwide perspective, to requiring them to participate in pooling. For example, LERG data shows that ILECs outside of the largest 100 MSAs use approximately 4.5 [**23] percent of all of the NXX codes and CLECs outside of the largest 100 MSAs only use approximately 2.3 percent of all NXX codes. n42 For these reasons, we find that requiring these carriers to participate in pooling would not result in significant number optimization benefits.

n40 The data on the number of CLECs in the 180 MSAs outside of the 100 largest MSAs was taken from the October 2001 LERG, which is published by Telcordia Technologies, Inc. Information on obtaining a copy of the LERG can be found at <http://www.trainfo.com>.

n41 OPASTCO Comments at 7; USTA Reply Comments at 6.

n42 In contrast, in the largest 100 MSAs. CLECs hold approximately 26.4 percent of all NXX codes.

20. We also find that requiring non-LNP capable carriers outside of the largest 100 MSAs to participate in pooling would impose disproportionate costs on them in comparison to LNP capable carriers operating in the 100 largest MSAs. Evidence from the record suggests that the per line cost to establish pooling capability would be significantly higher for small and rural carriers operating outside of the largest 100 MSAs than for carriers operating inside urban and metropolitan areas because of these [**24] carriers' limited customer bases. n43 Additionally, some commenters predict that imposing these costs on smaller and rural carriers may delay efforts to bring advanced services to rural subscribers. n44 Weighed against the limited number optimization benefits of requiring these carriers' participation in pooling, these costs appear to be unreasonably high.

n43 NTCA Comments at 2-3.

n44 OPASTCO Comments at 7.

3. State Authority to Require Pooling Capability

21. Finally, we reject the State Coordination Group's request to delegate authority to states to determine on a case-by-case basis whether to extend pooling requirements. n45 As we stated in the *First Report and Order*, n46 uniform national standards for pooling are necessary to minimize confusion and additional expense related to compliance with inconsistent regulatory requirements. We will, however, entertain requests from state commissions to opt into the rollout schedule for pooling in MSAs outside of the largest 100. n47

n45 State Coordination Group Comments at 8.

n46 *See First Report and Order, 15 FCC Rcd at 1761, para. 169.*

n47 *See Thousands-Block Number Pooling Public Notice* at 2. States outside of the largest 100 MSAs who wish to establish pooling may opt into the national pooling rollout schedule if they can demonstrate that: 1) an NPA in the state is in jeopardy, 2) the NPA in question has a remaining life span of at least one year, and 3) the majority of wireline carriers in the NPA are LNP-capable. *See First Report and Order, 15 FCC Rcd at 7648-49, para. 164.* [**25]

[*263] **C. Thousands-Block Number Pooling for Covered CMRS Carriers**

22. In the *Second Report and Order*, we declined to adopt a transition period between the time that covered CMRS carriers must implement LNP and the time they must participate in mandatory pooling. Qwest, Cingular Wireless, BellSouth, Cellular Telecommunications & Internet Association (CTIA), and Sprint sought reconsideration of this issue. n48 These commenters assert that additional time is needed to make changes to their systems to implement pooling. n49 Sprint states that the Commission's decision not to establish a separate and phased-in implementation plan for CMRS pooling is unexplained and contrary to precedent. n50

n48 BellSouth Petition at 12-15; Cingular Wireless Petition at 3-13; CTIA Petition at 5-14; Qwest Petition at 2-5; Sprint Petition at 5-12. *But see* Opposition of the Maine Public Utilities Commission to Petitions for Reconsideration (April 12, 2001).

n49 Cingular Wireless Petition at 3-6 and Qwest Petition at 5. Both Qwest and Cingular cite numerous factors delineating why additional time is needed to implement pooling. These factors will be more fully addressed in the current proceeding in the Wireless Bureau addressing the Verizon Wireless Petition. *See infra* at n. 51. [**26]

n50 *See* Sprint Petition at 5-12.

23. We decline to address in this Order whether the LNP implementation date for covered CMRS carriers should be delayed or eliminated, as some carriers suggest. n51 We find, however, that it is in the public interest to require covered CMRS carriers to participate in thousands-block number pooling as soon as possible to maximize number utilization efficiency. n52 We therefore again decline to alter the implementation date for covered CMRS carriers to participate in pooling. The record in this proceeding does not demonstrate that covered CMRS carriers need additional time to participate in pooling, as some assert. n53 As we stated in the *First Report and Order*, implementation of thousands-block number pooling in major markets is essential to extending the life of the NANP. n54 Because the effectiveness of pooling increases as the number of participants increase, we remain convinced that covered CMRS carriers should participate in pooling as soon as possible.

n51 *See* Verizon Wireless Petition Pursuant to *47 U.S.C. Sec. 160* for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation. WT Docket 01-184 (filed July 26, 2001) (*Verizon Wireless Petition*). Verizon Wireless seeks forbearance of the requirement that covered CMRS carriers become LNP capable by November 24, 2002. The petition indicates that Verizon Wireless will, however, comply with the corresponding deadline for participation in pooling. The Commission intends to address issues raised by Verizon Wireless's petition in a separate order. [**27]

n52 We note that CMRS service providers are not exempt from numbering resource optimization measures, and that they are significant users of numbering resources.

n53 Indeed, some carriers have asserted that pooling capability is more readily achievable than LNP capability. We also note that the NANC Local Number Portability Administration (LNPA) Working Group, has followed a timeline tracking LNP progress. *See* LNPA Working Group. *Wireless Number Portability Operations Status Report to NANC.* June 15, 2001.

n54 *First Report and Order, 15 FCC Rcd at 7625, para. 122.*

[*264] **D. Federal Cost Recovery Mechanism**

24. Section 251(e)(2) of the Act requires that "the cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission." n55 This statutory provision applies both to the costs of numbering administration and to the costs of LNP. In the *First Report and Order*, the Commission established a competitively neutral federal cost recovery framework for thousands-block number pooling modeled [**28] on the LNP cost recovery framework. n56 The Commission concluded that requiring carriers to bear and recover their own carrier-specific thousands-block number pooling costs is consistent with section 251(e)(2)'s competitive neutrality requirement. n57 The Commission also concluded that shared industry costs, along with carrier-specific costs directly related to thousands-block number pooling, would be subject to an exclusively federal carrier-specific cost recovery mechanism to be established in a subsequent order. n58 Finally, the Commission concluded that costs incurred by carriers to meet state-mandated thousands-block number pooling are intrastate costs and should be recovered under state cost recovery mechanisms. n59

n55 *47 U.S.C. § 251*(e)(2).

n56 *First Report and Order, 15 FCC Rcd at 7662-63, 7665-67,* paras. 193-94, 201-03.

n57 *Id. at 7669, para. 209.* The Commission also concluded that because carrier-specific costs not directly related to thousands-block number pooling are not costs of thousands-block number pooling implementation, they are not subject to the competitively neutral requirement of Section 251. Accordingly, carriers are not allowed to recover such costs. *First Report and Order, 15 FCC Rcd at 7670, para. 211* (citing Telephone Number Portability *Third Report and Order, 13 FCC Rcd 11701, 11724 (1998)* (*LNP Third Report and Order*)). [**29]

n58 *See First Report and Order, 15 FCC Rcd at 7663, 7668-69,* paras. 196, 207.

n59 *Id. at 7664, para. 197.*

25. In this *Third Report and Order*, we direct states implementing thousands-block number pooling under delegated authority to commence cost recovery actions for state-mandated thousands-block number pooling trials. We applaud the efforts that state commissions have made in implementing pooling trials within their respective jurisdictions, and we believe that the costs should be covered within those jurisdictions that have enjoyed the benefits of such trials. On the other hand, we believe that national cost recovery is appropriate when thousands-block number pooling is extended nationwide. We also conclude that many of the costs associated with thousands-block number pooling are ordinary costs for which no additional or special recovery is appropriate. We, therefore, establish a federal cost recovery mechanism

under which price cap LECs may recover their extraordinary carrier-specific costs directly related to thousands-block number pooling through an exogenous adjustment to access charges. Rate of return [**30] carriers will recover their costs in their interstate access charges in the ordinary course. We permit carriers not subject to rate regulation to recover these costs in any lawful manner. Further, because thousands-block number pooling may actually reduce network costs, in order for carriers to qualify for the exogenous adjustment to access charges that we establish here, we require them to demonstrate that pooling results in a net cost increase rather than a cost [*265] reduction. Finally, we provide additional guidance as to how we will identify recoverable costs incurred "for the provision of" thousands-block number pooling.

1. Federal/State Jurisdiction

26. To enable consumers to benefit from thousands-block number pooling as soon as feasible, the Commission granted states authority to implement thousands-block number pooling on an individual basis in advance of national implementation. n60 In the *First Report and Order*, the Commission determined, however, that national thousands-block number pooling cost recovery could not begin until national implementation occurs. n61 Accordingly, the Commission determined that states exercising delegated authority over number pooling must [**31] develop their own cost recovery mechanisms. n62 Development and implementation of state cost recovery is necessary to ensure that carriers recover the costs of advance implementation of thousands-block number pooling attributable to the state jurisdiction. n63 These individual cost recovery schemes will transition to the national cost recovery plan, on a forward-looking basis, when the latter becomes effective. n64 Some commenters complain that no states have established cost recovery mechanisms at the state level and that states generally have been reluctant to do so. n65 Some argue that state costs should be folded into national costs and all thousands-block number pooling costs should be recovered in the federal jurisdiction. n66

n60 *See, e.g., California Public Utilities Commission Petition for Delegation of Additional Authority Pertaining to Area Code Relief and NXX Code Conservation Measures, 14 FCC Rcd 17486, 17492, para. 14 (1999); Florida Public Service Commission Petition to FCC for Expedited Decision for Grant of Authority to Implement Number Conservation Measures. 14 FCC Rcd 17506, 17511, para. 13 (1999);* Massachusetts Department of Telecommunications and Energy's Petition For Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781, *and 978 Area Codes, 14 FCC Rcd 17447, 17452, para. 14 (1999); New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, 14 FCC Rcd 17467, 17472, para. 13 (1999).* [**32]

n61 *First Report and Order, 15 FCC Rcd at 7652, para. 171.*

n62 *Id. at 7664, para. 197.*

n63 *See id. at 7652-53, 7664,* paras. 171, 197. Costs associated with state pooling trials are excluded from the federal cost recovery mechanism. *Id. at 7664, para. 197.*

n64 *Id. at 7652, para 171.*

n65 *See* SBC Comments to *First Report and Order* at 3 n.8; USTA Comments to *First Report and Order* at 9. *But see* California PUC Reply Comments to *First Report and Order* at 5-6; Maine PUC Reply Comments to *First Report and Order* at 6-7.

n66 *See* Attachment to Letter from Pete Sywenki, Director Federal Regulatory Affairs, Sprint, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket No. 99-200 at 2 (filed July 25, 2001); Florida Public Service Commission Comments at 9-10; USTA Comments to *First Report and Order* at 9; US West Comments to *First Report and Order* at 3-4; Verizon Wireless Comments to *First Report and Order* at 27.

27. We decline to revisit the Commission's [**33] prior determination on this issue. n67 We [*266] expressly reject SBC's proposal to include its state pooling costs in the federal recovery mechanism; n68 we believe that the entire nation should not be required to bear costs incurred for the benefit of a particular state. In the past, the Commission has urged state commissions to follow the "road map" provided in the *First Report and Order* regarding cost recovery for

thousands-block number pooling. n69 To the extent that states were awaiting additional guidance on a specific cost recovery mechanism, they may now follow the blueprint for cost recovery that we lay out here and in our prior orders, should they so choose.

n67 *See First Report and Order, 15 FCC Rcd at 7664, para. 197.*

n68 *See* SBC Comments at 25 n.71. SBC Comments to *First Report and Order* at 3 n.8.

n69 See, e.g., *Petitions of Indiana Utility Regulatory Commission et al. for Delegated Authority to Implement Number Optimization Measures, 16 FCC Rcd 5474, 5484, para. 22 (2001) (Indiana Delegation Order); Petitions of the Arizona Corporation Commission, et al. for Delegated Authority to Implement Number Conservation Measures, 15 FCC Rcd 23371, 23382, para. 22 (2000) (Arizona Delegation Order).* [**34]

28. We now direct states that have exercised delegated authority and implemented thousands-block number pooling to likewise commence cost recovery procedures for these state-specific costs. We agree with BellSouth that any state that has ordered implementation of pooling in advance of the national rollout is required to implement a cost recovery scheme. n70 In our orders delegating authority to the state commissions to institute thousands-block number pooling trials, we have reminded the states to ensure that the shared costs of thousands-block number pooling are borne and that the carrier-specific costs of thousands-block number pooling are recovered on a competitively neutral basis in accordance with Section 251(e)(2) of the Act. n71 If, after reviewing carrier cost submissions, states determine in accordance with Section 251(e)(2) and the Commission's analysis here and in the *First Report and Order* that carriers have incurred little or no recoverable carrier-specific costs directly related to state thousands-block number pooling trials (i.e., incremental costs directly attributable to thousands-block number pooling), they should make affirmative findings to that effect.

n70 *See* BellSouth Reply Comments at 6-7. [**35]

n71 *See Indiana Delegation Order, 16 FCC Rcd at 5483-84, para. 21; Arizona Delegation Order, 15 FCC Rcd at 23381-82, para. 22; First Report and Order, 15 FCC Rcd at 7652-53, para. 171 and n.410.*

29. Carriers maintain that the bulk of their costs attributable to thousands-block number pooling are incurred on a regional, rather than a state-specific, level and thus they are uncertain how to allocate costs between the federal and the state jurisdiction. n72 When carriers have incurred costs directly related to thousands-block number pooling at the state level prior to the implementation of national thousands-block pooling, the advancement costs of state-specific deployment should be attributed to the state jurisdiction. n73 In other words, carrier-specific costs directly related to number pooling that are incurred for national implementation of thousands-block number pooling should be recoverable through the federal mechanism, but any costs [*267] attributable to advance deployment at the state level will be subject to state recovery mechanisms. Advancement costs should be allocated among study [**36] areas according to normal accounting procedures and assigned directly to the state jurisdiction.

n72 *See, e.g.*, Letter from Kathleen B. Levitz, Vice President - Federal Regulatory, BellSouth, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket Nos. 96-98, 99-200 (filed June 20, 2001) (*BellSouth Cost Study).*

n73 *See* Bell Atlantic Reply Comments to *First Report and Order* at 3-4.

2. Recovery of Shared Industry and Direct Carrier-Specific Costs

a. Background

30. In the *Notice*, the Commission tentatively concluded that ILECs subject to rate-of-return or price cap regulation may not recover their interstate carrier-specific costs directly related to thousands-block number pooling through a federal charge assessed on end-users, but may recover their costs through other cost recovery mechanisms. n74 The Commission sought comment on how price cap carriers should be permitted to recover the costs of thousands-block

number pooling implementation, particularly whether price cap carriers should be permitted to treat exogenously any of the thousands-block number pooling implementation cost categories. n75 The Commission also sought [**37] comment on whether these costs should be placed in a new price cap basket or, alternatively, in an existing basket. n76 The Commission tentatively concluded that carriers not subject to rate-of-return or price cap regulation should recover their carrier-specific costs directly related to thousands-block number pooling implementation in any lawful manner consistent with their obligations under the Act. n77 The Commission sought comment on these tentative conclusions and asked whether they meet section 251(e)(2)'s requirement that numbering administration costs must be borne on a competitively neutral basis. n78 To facilitate its determination, in the *First Report and Order*, the Commission requested additional cost information, including comment and cost studies quantifying the shared industry and direct carrier-specific cost of thousands-block number pooling. n79 The Commission also sought information on the cost savings that would be achieved through thousands-block number as opposed to the frequent area code changes that result from current numbering practices. n80 In the *Second Report and Order*, the Commission renewed this request for further comment and data. n81

n74 *Notice, 14 FCC Rcd at 10410, para. 204.* [**38]

n75 *Id.* at para. 205.

n76 *Id.*

n77 *Id.* at para. 204.

n78 *Id.*

n79 *First Report and Order, 15 FCC Rcd at 7671, 7687-88,* paras. 214, 253.

n80 *Id.*

n81 *Second Report and Order, 16 FCC Rcd at 379, para. 182.*

31. Some parties argue that we should not establish an explicit cost recovery mechanism because numbering costs are an ongoing cost of doing business for which recovery is [*268] inappropriate. n82 Some commenters support the tentative decision to permit thousands-block number pooling cost recovery through access charges. n83 Others argue that, like LNP, thousands-block number pooling is not an access-related service, and therefore it would not be competitively neutral to permit recovery of thousands-block number pooling costs through access charges. n84 They argue that ILEC recovery through access charges would distort the market for interstate access services, disadvantage purchasers of access services, and cause implicit subsidies, which is contrary to the statutory mandate that subsidies be explicit. n85 Some parties urge us to model our thousands-block number pooling cost recovery [**39] mechanism on the LNP cost recovery model by increasing the LNP end-user charge or extending it for a limited period of time. n86 US West argues that federal cost recovery should be divided into two parts: (a) nonrecurring costs for developing and implementing pooling should be recovered through an end-user surcharge and (b) recurring costs should be recovered through a charge added to the existing subscriber line charge (SLC) that results from price caps. n87 Other parties, however, oppose any charge. n88

n82 *See* Ad Hoc Comments at 33-34; NASUCA at 32; *see also* AT&T Reply Comments at 17-18.

n83 *See* NECA and NTCA Comments to *First Report and Order* at 2-3; Bell Atlantic Reply Comments to *First Report and Order* at 6.

n84 *See* Sprint Comments to *First Report and Order* at 18; WorldCom Comments to *First Report and Order* at 20.

n85 *See* AT&T Reply Comments at 18 n.58; Sprint Reply Comments at 19; CTIA Comments to *First Report and Order* at 8-9; WorldCom Comments to *First Report and Order* at 20; AT&T Reply Comments to *First Report and Order* at 13; VoiceStream Reply Comments to *First Report and Order* at 13.

n86 *See* BellSouth Comments at 29; SBC Comments at 27; Sprint Comments at 19; Verizon Comments at 6; AT&T Comments to *First Report and Order* at 16 n.38; WorldCom Comments to *First Report and Order* at 20. [**40]

n87 *See* US West Comments to *First Report and Order* at 2.

n88 *See* NASUCA Comments at 30; General Services Administration Comments to *First Report and Order* at 10-11.

b. Discussion

32. For the reasons discussed in the following paragraphs, we will allow but not require ILECs subject to rate-of-return or price cap regulation to recover their carrier-specific costs directly related to thousands-block number pooling implementation through existing cost recovery mechanisms of rate-of-return or price cap adjustments. We also conclude, as with LNP, that carriers not subject to rate regulation, such as CLECs and CMRS providers, may recover their carrier-specific costs directly related to implementation of thousands-block number pooling in any lawful manner consistent with their obligations under the Act. n89

n89 *See LNP Third Report and Order, 13 FCC Rcd at 11774, para. 136.*

33. *Characterization of Number Pooling Costs.* Despite the urging of many commenters, we resist imposing another direct charge on end-users. In the *LNP Third Report and Order*, the Commission chose not to include LNP costs in access charges because LNP [**41] is not [*269] an access-related service, and instead imposed a direct end-user charge. n90 The Commission therefore found that recovering LNP costs through access charges would be inappropriate and would not be competitively neutral. n91 With respect to thousands-block number pooling, however, we find the opposite to be true. Although thousands-block number pooling and LNP utilize the same LRN architecture, n92 we find that because they are very different types of services, different types of recovery are appropriate.

n90 *See id., 13 FCC Rcd at 11773, para. 135.*

n91 *See id.*

n92 *See First Report and Order, 15 FCC Rcd at 7622, para. 117 and n.238.* The Location Routing Number (LRN) database structure, which supports LNP, is used to route calls to customers who have been assigned telephone numbers from a pool because, as with a ported number, the NPA-NXX of a pooled number no longer necessarily identifies the switch or service provider associated with the service. The LRN is a unique ten-digit number assigned to each central office switch to identify each switch in the network for call routing purposes. *Id.*

34. [**42] We are led to the view that numbering administration is inherently access-related by the same reasoning that led us to conclude that LNP was *not* access-related. LNP was an entirely new service and performed no telephone network function that would benefit ILECs. It was implemented for the sole purpose of making it easier for subscribers to change carriers. Numbering administration, on the other hand, is a basic telephone network function. IXCs would not be able to route calls from their subscribers without a numbering system. n93 Thousands-block number pooling is thus different from LNP because it is, essentially, an enhancement of existing numbering administration procedures designed to extend the life of the existing numbering system. n94 Treating pooling as an access-related service is thus entirely appropriate. Access charges are the means by which access customers share in the costs of the telephone network, n95 and all carriers and subscribers will benefit from national thousands-block number pooling to the extent that it postpones or avoids area code relief and ultimately the replacement of the existing NANP. n96

n93 Carriers use telephone numbers for many other access-related services such as billing, maintenance, administration, and various forms of record keeping. [**43]

n94 *See Notice, 14 FCC Rcd at 10384, para. 138.*

n95 *See generally*, 47 C.F.R. § 69.1 *et seq.*

n96 *See First Report and Order, 15 FCC Rcd at 7625, para. 122.*

35. Characterizing pooling costs as access-related and permitting recovery of the extraordinary costs of thousands-block number pooling accordingly is consistent with the statutory mandate of competitive neutrality. In the *LNP Third Report and Order*, the Commission noted that, in evaluating the costs and rates of telecommunications services, the Commission ordinarily applies principles of cost causation under which the purchaser of a service pays at least the incremental cost of providing that service. n97 The Commission found that [*270] following ordinary cost causation principles for assigning the costs of LNP would affect the ability of carriers to compete because LNP costs arise only when subscribers change carriers. n98 At least initially, the vast bulk of such changes would occur as entrants win incumbents' customers. Imposing the bulk of the costs of LNP on new entrants would have contradicted the purpose of the statutory requirement for LNP, [**44] which was to make telephone markets more competitive. n99 For this reason, in the case of LNP, departure from ordinary cost causation principles was necessary. n100

n97 *See LNP Third Report and Order, 13 FCC Rcd at 11726-27, para. 41* (citing *LNP First Report and Order, 11 FCC Rcd at 8419-20).*

n98 *See id.*

n99 *See id.* at 11727, para. 43 (citing *LNP First Report and Order, 11 FCC Rcd at 8420-21).*

n100 *See id.* at 11726-28, 11731-32, paras. 41-44, 52-53.

36. In the case of thousands-block number pooling, it is not clear who is the "cost causer." The need for pooling results from extraordinary growth of subscribership and the provision of new services in recent years, as well as the entry of new carriers that require blocks of numbers in each rate center. n101 These factors have combined to make space in the number spectrum scarce. All carriers that provide numbers to subscribers have contributed to the number exhaust problem, regardless of whether they began using the numbers long ago or recently. All carriers can contribute to resolving the exhaust problem by using [**45] numbers more efficiently, in part through number conservation measures such as thousands-block number pooling. In this context, thousands-block number pooling is simply an enhancement to the previous numbering administration plan that facilitates more efficient coordination among all carriers, and thus there is no "cost causer" in the traditional sense.

n101 *See First Report and Order 15 FCC Rcd at 7577, 7578-79,* paras. 2, 5.

37. *Recoverable Costs.* This same reasoning informs our analysis of the kind of costs for which carriers may seek recovery. We agree with those commenters that maintain that the costs of numbering administration are generally and appropriately treated as an ordinary cost of doing business. n102 The recent growth in demand for number resources have required that ILECs and other carriers implement number conservation and numbering management practices, for example, reusing numbers assigned to former subscribers, area code splits, and overlays. We have considered the costs of these numbering administration measures to be ordinary LEC administrative functions that are recovered in LEC rates generally. n103 Under price caps, they [**46] are usually considered normal network upgrades that do not qualify for extraordinary recovery (*i.e.*, through an exogenous adjustment to the price cap formula). Under rate-of-return, an adjustment was granted only through the normal review process, that is, upon a showing by the carrier that it would not otherwise earn its authorized rate-of-return. This means that, in principle, recovery of the costs of numbering administration is already provided for in LEC compensation.

n102 *See* Ad Hoc Comments at 33-34; NASUCA Comments at 32.

n103 *See* Telephone Number Portability Cost Classification Proceeding. *Memorandum Opinion and Order, 13 FCC Rcd 24495, 24499, para. 7 (1998)* (*LNP Cost Classification Order*).

38. Thus, the rationale that supported extraordinary cost recovery for LNP [*271] implementation does not support such recovery for thousands-block number pooling. That is. LNP was a new service that did not benefit local exchange operations, but instead made it easier for subscribers to change carriers. In contrast, thousands-block number pooling is, in principle, an enhancement of existing numbering administration procedures, the costs [**47] of which are already being recovered through existing mechanisms. n104 However, because the Commission has mandated thousands-block number pooling as a national numbering resource optimization strategy, increased costs, if any, associated with thousands-block number pooling are distinguishable from those associated with NPA relief. Therefore, we conclude that a very narrow approach to thousands-block number pooling recovery is appropriate, and that extraordinary recovery should be granted only for extraordinary implementation costs. Because access charges are intended to recover a portion of telephone network costs, including the extraordinary costs of number pooling and permitting recovery of these extraordinary costs in access charges as we would any other cost of administration does not constitute a subsidy, implicit or explicit. More specific guidance as to how these extraordinary costs are to be identified is provided in section 3 below.

n104 Moreover, implementation of thousands-block number pooling will enable continued growth of carriers' subscriber base. This, and the revenue from the additional services sold as a result, will provide some substantial recovery for numbering administration costs, including the costs of implementing thousands-block number pooling. [**48]

39. *Recovery Methodology.* Price cap carriers may recover extraordinary costs as follows. Under the price cap rules, extraordinary cost increases that result from mandates of this Commission may result in an exogenous increase in price cap ceilings that apply to access charges. n105 Thus, any appropriate adjustment for price cap carriers should be made in this manner. n106 The extraordinary costs of thousands-block number pooling will be assigned to the common line basket because they are most closely associated with lines. Because recovery for numbering administration expenses is already included in basic LEC compensation, however, LECs seeking extraordinary recovery of thousands-block number pooling costs in the form of an exogenous adjustment to their price cap formula must overcome a rebuttable presumption that no additional recovery is justified.

n105 *See* 47 C.F.R. § 61.45(d).

n106 For rate-of-return carriers, of course, costs arising from thousands-block number pooling would be treated in the same manner as other costs in each carrier's biennial rate adjustments. *See* 47 C.F.R. § 61.39.

40. Moreover, in order to qualify for an exogenous upward adjustment, [**49] carriers must also demonstrate that thousands-block number pooling results in a net cost increase rather than a cost reduction. Unlike other mandates of the Commission, thousands-block number pooling may reduce network costs. Some commenters argued that savings associated with thousands-block number pooling are speculative or *de minimus*. n107 Others argue that implementation of thousands-block number pooling will save substantial costs over current area code relief practices and could result in a cost savings. n108 In the absence of carrier-specific evidence, we do [*272] not endorse either line of argument. However, as the Commission has already observed, to the extent that thousands-block number pooling postpones or avoids area code relief and ultimately the replacement of the existing NANP, all carriers and subscribers will benefit. n109 To qualify for an exogenous adjustment, carriers must show that costs for which extraordinary treatment is sought exceed the costs that would have been incurred had the carrier engaged in an area code split, overlay or other numbering relief that would otherwise have been required in the absence of pooling. Only extraordinary upward costs will be subject [**50] to direct assignment to interstate access for separations purposes under the federal cost recovery mechanism we have established in this Order. n110 That is, consistent with historical treatment, ordinary costs will flow though jurisdictional separations in the normal manner. n111

n107 *See* NECA Comments at 3: SBC Comments at 25; Verizon Comments at 5.

n108 *See* Ad Hoc Comments at 31-33: Joint Consumer Comments to *First Report and Order* at 42: General Services Administration Reply Comments to *First Report and Order* at 16-17.

n109 *See supra* at n.96 and accompanying text (citing *First Report and Order, 15 FCC Rcd at 7625, para. 122).*

n110 In the *First Report and Order*, the Commission concluded that ILECs will be able to recover qualifying costs of thousands-block number pooling through an exclusively federal cost recovery mechanism and that qualifying costs are assigned directly to the interstate jurisdiction for separations purposes. *See First Report and Order, 15 FCC Rcd at 7663-64,* paras. 196-197.

n111 *See generally*, 47 C.F.R. § 36.

41. Because the extraordinary federal recovery [**51] mechanism is intended to recover only the initial implementation costs of thousands-block number pooling and, as in the case of LNP, pooling will ultimately become a normal network feature recovered through existing means, n112 any exogenous increase in an ILEC's permitted price cap revenues should be reversed after those initial extraordinary costs have been recovered. Based upon our review of the carriers' filings, the cost of thousand-block number pooling implementation is anticipated to be substantially lower than LNP implementation. Thus, we believe the five-year recovery period for LNP costs represents the longest reasonable period for recovering the cost of thousands-block number pooling. On the other hand, a one-time charge would create an inordinate financial hardship on access customers. We are thus required to establish some reasonable period of time, shorter than five years, over which these costs may be recovered. Given that an ILEC's unrecovered capital investment will be subject to an 11.25 percent after-tax return, however, a longer recovery period greatly increases the total cost, while a shorter recovery period would decrease total cost by decreasing the interest [**52] expense. Accordingly, we conclude that recovery should be spread over a two-year period. This is appropriate given the two-year national rollout period recently proposed. n113 After this implementation period, thousands-block number pooling will have become a normal network function and recovery of ongoing costs will be through existing means. Price cap carriers should file tariffs reflecting recovery through an exogenous recovery adjustment for a two-year period beginning April 2, 2002. Setting the effective date at the beginning of the month following scheduled implementation will be administratively convenient both for carrier billing systems and for the Commission's tariff review. Capital costs should be amortized over the recovery period. Non-price cap carriers subject to rate regulation may include [*273] these costs in the common line category in their biennial rate adjustment. n114

n112 *See LNP Third Report and Order, 13 FCC Rcd at 11777, para. 144.*

n113 *See* Thousands-Block Number Pooling Public Notice.

n114 Some commenters have argued that a cost recovery mechanism should be established for nonpooling carriers. *See, e.g.*, NECA Comments at 4-5: USTA Reply Comments to *First Report and Order* at 5-6. In the LNP context, some non-LNP capable carriers have incurred costs associated with LNP database queries. Because these carriers are not LNP-capable, they are ineligible to recover these costs under current Commission rules. *See* 47 C.F.R. § 52.33. Commenters in the instant proceeding seek to avoid being subject to similar rules that might preclude recovery for thousands-block number pooling query charges. In areas in which thousands-block number pooling has been implemented, one database query will retrieve both LNP and thousands-block number pooling routing information. A petition for reconsideration of the *LNP Third Report and Order*, which raises the issue of cost recovery for database query charges incurred by non-LNP capable carriers, is currently pending before the Commission. *See* NECA Expedited Petition for Reconsideration, CC Docket No. 95-116 (filed July 29, 1998). Because number pooling can be implemented only where LRN LNP has been deployed, *see First Report and Order, 15 FCC Rcd at 7622, para. 117,* and because only one database query will occur for both the LNP and pooling inquiries, this issue is appropriately resolved in the LNP proceeding rather than in this matter. [**53]

3. Identification of Costs

42. In the *First Report and Order*, the Commission determined that shared industry costs, along with other carrier-specific costs directly related to thousands-block number pooling, will be subject to a federal carrier-specific cost recovery mechanism, n115 which we have now established as discussed above. The amount and detail of the data provided in response to the Commission's request for estimates of the costs of thousands-block number pooling, however, did not adequately reveal the amount and/or magnitude of such costs. This made selection of the appropriate cost recovery mechanism difficult. n116 Accordingly, the Commission again requested cost information. n117 Ultimately, several carriers filed cost studies. n118 Our preliminary review of these initial cost studies indicates that

some carriers may have included costs that are inappropriate under the test for extraordinary recovery that we established in the *First Report and Order*. Some of the cost items included are very similar to cost claims rejected in the *LNP Tariff Investigation Orders*. n119 Accordingly, we briefly explain how we will identify recoverable costs incurred "for [**54] the provision of" thousands-block number pooling.

n115 *First Report and Order, 15 FCC Rcd at 7669, para. 207.*

n116 *Id. at 7671, 7687,* paras. 214, 253.

n117 *See Second Report and Order, 16 FCC Rcd at 379, para. 182; First Report and Order, 15 FCC Rcd at 7671, 7687,* paras. 214, 253.

n118 *See* BellSouth Cost Study; Qwest Comments at Appendix A: SBC Comments (Cost Support Data); Sprint Reply Comments (Cost Study); *see also* US West Comments to *First Report and Order* at Workpapers 1-3.

n119 *See Long-Term Number Portability Tariff Filings, Ameritech Operating Companies, et al., 14 FCC Rcd 11883 (1999); Long-Term Number Portability Tariff Filings, 14 FCC Rcd 11983 (1999)* (collectively *LNP Tariff Investigation Orders*).

43. In the *First Report and Order*, the Commission concluded that the same strict standards applied to evaluate claimed costs of implementing LNP will also apply to thousands-block number pooling. n120 Thus, under these standards, to be eligible for the extraordinary [**55] [*274] recovery we establish above, thousands-block number pooling costs must satisfy each of three criteria identified in the LNP proceedings. First, only costs that would not have been incurred "but for" thousands-block number pooling are eligible for recovery. n121 Second, only costs incurred "for the provision of" thousands-block number pooling are eligible for recovery. n122 Finally, only "new" costs are eligible for recovery. n123 To be eligible for extraordinary recovery, carriers' thousands-block number pooling shared industry and carrier-specific costs directly related to thousands-block number pooling must satisfy all three of these criteria. n124 Through the adoption of the LNP three-pronged test, the Commission sought both to prevent the overrecovery of thousands-block number pooling and number portability costs n125 and to prevent the recovery of costs not directly related to thousands-block number pooling. n126

n120 *See First Report and Order, 15 FCC Rcd at 7673,* paras. 218-19.

n121 *See id. at 7673, para. 218.*

n122 *See id.*

n123 *See id. at 7673, para. 219.*

n124 Carrier-specific costs not directly related to thousands-block number pooling implementation are not eligible for recovery. *See id. at 7670, para. 211.* [**56]

n125 Because changes to the network for both thousands-block number pooling and number portability are similar, and because carriers are currently recovering the costs of number portability through a separate end-user charge, carriers were directed to distinguish the costs of providing number portability from the costs of implementing thousands-block number pooling. *See id. at 7672, para. 216.*

n126 *See id. at 7672-73,* paras. 216-17.

44. The first two criteria shall be interpreted as follows. Only costs that were incurred "for the provision of" thousands-block number pooling are eligible for recovery through this extraordinary mechanism, but these must also be costs that would not have been incurred "but for" thousands-block number pooling. n127 This means that only the demonstrably incremental costs of thousands-block number pooling may be recovered. n128 The Commission adopted a narrow definition of the phrase "for the provision of" in the LNP proceedings. The only eligible LNP costs were the "costs carriers incur specifically in the provision of number portability services, such as for the querying of calls and

[**57] the porting of telephone numbers from one carrier to another." n129 Similarly, we conclude here that costs specifically incurred in the narrowly defined thousands-block pooling functions are those incurred specifically to identify, donate and receive blocks of pooled numbers, to create and populate the regional databases and carriers' local copies of these databases, and to adapt the procedures for querying these databases and for routing calls so as to accommodate a number pooling environment. These findings are based on [*275] our review of the filed cost studies. n130

n127 *See id. at 7673, para. 218.*

n128 *See id. at 7672-75,* paras. 217-24.

n129 *See LNP Cost Classification Order, 13 FCC Rcd at 24501, para. 12* (citing *LNP Third Report and Order, 13 FCC Rcd at 11740, para. 72).*

n130 *See generally,* BellSouth Cost Study; Qwest Comments at Appendix A; SBC Comments (Cost Support Data); Sprint Reply Comments (Cost Study).

45. As with LNP, costs that carriers incur as an "incidental consequence" of thousands-block number pooling implementation are not [**58] incurred specifically in the provision of narrowly defined thousands-block pooling functions. Thus, costs incurred to adapt other systems to the presence of thousands-block number pooling are not incurred for the provision of thousands-block number pooling and are ineligible for recovery. n131 Examples of such systems include those for maintenance, repair, billing and other functions not directly involved in the provision of thousands-block number pooling. These systems are not part of the provisioning of thousands-block number pooling. Similarly, costs incurred to facilitate the continued provision of other services in the presence of number pooling are an "incidental consequence" and are not eligible for recovery. For example, database-related costs such as those involving service control points (SCPs) that support services such as third-party billing or calling card calls are not eligible even though these costs would not have been incurred but for number pooling.

n131 *See LNP Cost Classification Order, 13 FCC Rcd at 24501, para. 12* (citing *LNP Third Report and Order, 13 FCC Rcd at 11740, para. 72).*

46. The third [**59] part of our test requires that thousands-block number pooling costs must also be "new" costs in order to qualify for recovery though the extraordinary mechanism. Costs incurred prior to the implementation of thousands-block number pooling are ineligible for recovery because they are embedded investments already subject to recovery through standard mechanisms. Thus, permitting recovery of these costs again through this extraordinary mechanism would amount to double recovery. n132 Costs are not "new," and thus are ineligible for extraordinary treatment as thousands-block number pooling charges, if they previously were incurred, are already being recovered under ordinary recovery mechanisms, or are already being recovered thorough the number portability end-user charge or query charge.

n132 *See First Report and Order, 15 FCC Rcd at 7673, para. 219; see also LNP Cost Classification Order, 13 FCC Rcd at 24503, para. 18.*

IV. WAIVER OF GROWTH NUMBERING RESOURCE REQUIREMENTS

A. Reconsideration of Months-to-Exhaust Criteria

47. In the *First Report and Order,* the Commission mandated that carriers demonstrate that their [**60] inventory of numbering resources will exhaust within six months before obtaining additional numbering resources by completing a Months-to-Exhaust (MTE) Worksheet. n133 Several carriers seek reconsideration of the MTE requirement. n134 SBC recommends eliminating it, but maintaining the utilization requirement. n135 Similarly, USTA argues that carriers should not [*276] be required to meet both the MTE and utilization requirements. n136 USTA also suggests that if both the MTE and utilization requirements are retained, distinctions should be adopted between wireline and wireless carriers and pooling and non-pooling areas. n137

n133 *First Report and Order, 15 FCC Rcd at 7615-16, para. 101-102.*

n134 BellSouth Petition at 1; SBC Petition at 1-2; USTA Petition at 2.

n135 SBC Comments at 2.

n136 USTA Comments at 2.

n137 *Id.* at 3. USTA suggests that the MTE and utilization criteria should be calculated at the switch level in a non-pooling environment and at the rate center level in a pooling environment.

48. We reaffirm that the MTE requirement is an important tool to ensure that numbering resources are used efficiently and that carriers have [**61] an adequate supply of resources to serve customers. n138 This requirement seeks to prevent carriers from carrying excessive inventories of numbering resources. n139 To ensure that carriers request and receive numbering resources only when and where needed, carriers must continue to be required to demonstrate in the MTE calculation that they need numbering resources to provide services. The MTE requirement coupled with the utilization threshold requirement deters carriers from stockpiling excessive inventories. n140 It also helps maintain a level playing field among carriers. We therefore reject USTA's suggestions to exempt certain carriers in certain areas from the MTE requirement. n141 We also reject the argument that the MTE should be calculated on a per-switch basis. We continue to believe that the rate center-based projection is appropriate because it encourages carriers to use number efficiently within a local calling area and because the utilization threshold is calculated on a rate-center basis.

n138 In response to several petitions for reconsideration that opposed adoption of the MTE criteria, and a utilization threshold, the Commission affirmed both requirements. *Second Report and Order, 16 FCC Rcd at 320, para. 29.* [**62]

n139 *See Notice, 14 FCC Rcd at 10348.*

n140 Both requirements are necessary to optimize the use of numbering resources. They serve as objective needs-based criteria to allow carriers access to numbering resources in a competitively neutral manner.

n141 As noted in the *First Report and Order*, we decline to require different criteria for different market segments in order to maintain competitive neutrality. *See First Report and Order, 15 FCC Rcd at 7618, para. 106.*

49. In addition, we are not persuaded by the comments that suggest a MTE requirement is not necessary in light of the utilization threshold requirement. Both requirements serve important, but different, functions in promoting the Commission's numbering optimization policies: the MTE requirement deters stockpiling, and the utilization requirement helps ensure that carriers optimize the use of existing resources. None of the comments in this proceeding have persuasively demonstrated that the utilization requirement alone will also deter stockpiling. Accordingly, we decline to eliminate the MTE requirement.

B. Reconsideration of Utilization Threshold [63] and Formula**

50. In addition to meeting the MTE requirement, carriers must meet a 60% minimum utilization threshold in order to obtain growth numbering resources. n142 The threshold will [*277] increase by 5% annually commencing June 30, 2002, until it reaches 75% on June 30, 2004. n143 The utilization level is calculated by dividing all numbers assigned to end-users (numerator) by the total numbering resources assigned to that carrier (denominator) and multiplying the result by 100. n144 Several carriers seek reconsideration of the utilization requirements and the method for calculating utilization. Specifically, some carriers request reconsideration of the Commission's decision to exclude intermediate numbers from the numerator. n145 Cingular and BellSouth would also include reserved, aging, and administrative numbers in the numerator. Cingular also contends that if the utilization calculation is not modified, the Commission should significantly reduce the utilization threshold.

n142 *Second Report and Order, 16 FCC Rcd at 316, para. 22.* See also *Second Report and Order, 16 FCC Rcd at 319-20, para. 29,* wherein the Commission addressed petitions for reconsideration of the utilization requirement. [**64]

n143 *Id. at 318,* paras. 25-26.

n144 *First Report and Order, 15 FCC Rcd at 7619, para. 109.*

n145 SBC Petition at 3; CTIA Petition at 3; USTA Petition at 4. Intermediate numbers are numbers that are made available for use by another telecommunications carrier or non-carrier entity for the purpose of providing telecommunications service to an end user or customer. Numbers ported for the purpose of transferring an established customer's service to another service provider shall not be classified as intermediate numbers. *See* 47 C.F.R. § 52.15(f)(v).

51. SBC and Verizon object to the Commission's decision to allow state commissions that had established higher utilization levels to retain the higher threshold. n146 USTA and Verizon contend that the states that have authority to use higher utilization thresholds should either be allowed to continue to use their own formula for calculating those levels or be required to adjust the utilization threshold down to the federal 60% level. n147 Verizon requests reconsideration of the utilization calculation or, alternatively, confirmation that resellers are subject to [**65] the utilization level. n148 WorldCom requests reconsideration of the decision that pooling carriers must achieve the same utilization level as non-pooling carriers. n149

n146 SBC Petition at 5-7; Verizon Wireless Petition at 8-10.

n147 USTA Petition at 6; Verizon Petition at 8-9.

n148 Verizon Wireless Petition at 4-7.

n149 WorldCom Petition at 1-6.

1. Utilization Threshold

52. We decline to lower the utilization threshold established in the *Second Report and Order.* No carrier has demonstrated in the record that the utilization threshold is not readily achievable, or that the ability in most instances to serve customers is hampered because the threshold level is too high. To the contrary, utilization studies show that many carriers can meet or exceed the 60% utilization threshold. n150 A lower utilization threshold, or no utilization threshold as some commenters suggest, provides little incentive for carriers to optimize the use [*278] of their existing inventories. The utilization threshold is thus an important tool in achieving our numbering resource optimization goals, and petitioners have made no convincing arguments for eliminating or lowering it. n151

n150 *See November 2001 Numbering Utilization Report* at Figures 1-4. The data shows that where carriers have ten to twenty NXXs in a rate center LECs report over 65% utilization, CLECs report approximately 40% utilization, and wireless carriers report over 60% utilization. [**66]

n151 We also note that the utilization threshold applies to all carriers, including resellers, that receive numbering resources from the NANPA or the pooling administrator.

53. We will allow state commission that have established utilization thresholds higher than 60% to continue to use higher thresholds. In deference to state commissions and to encourage their progress in dealing with numbering exhaust, we support these stricter requirements. Grandfathered utilization thresholds cannot exceed the national 75% ceiling and must be calculated in the manner established in the *First Report and Order.* n152 We clarify, however, that states may lower grandfathered utilization levels to compensate for having to use the federal utilization methodology. We are satisfied that carriers that need additional numbering resources to serve their customers before they are able to meet the

required utilization threshold have sufficient redress at both the state and federal level. n153 Accordingly, we decline to eliminate the grandfathered utilization levels.

n152 *Second Report and Order, 16 FCC Rcd at 317, para 23.*

n153 *See infra* at Section IV.C.

[**67] **2. Utilization Formula**

54. Previously, the Commission denied requests to reconsider the manner in which the utilization level is calculated. n154 The petitioners present no arguments in support of their renewed request to change the calculation that have not already been rejected. The Commission previously found unpersuasive, and therefore rejected, arguments that administrative, aging, intermediate, and reserved numbers should be included in the numerator or that the utilization threshold should otherwise be reduced. n155 The Commission explained that basing the utilization calculation on assigned numbers is the appropriate measure, because it provides a more accurate representation of the percentage of numbers being used to serve customers. We continue to believe that this is the proper approach for furthering our numbering optimization goals. n156 We reaffirm that the utilization threshold should be calculated by dividing assigned numbers by the total numbering resources assigned to the carrier multiplied by 100.

n154 *Second Report and Order, 16 FCC Rcd at 320, para. 30.*

n155 *Id.*

n156 *First Report and Order, 15 FCC Rcd at 7618, para. 107* and *Second Report and Order, 16 FCC Rcd at 320, para. 30.* [**68]

3. Applicability of Utilization Threshold to Pooling Carriers

55. In the *Second Report and Order*, the Commission determined that the utilization threshold should be applied to pooling carriers. n157 Encouraged by the results of pooling trials [*279] with utilization thresholds, the Commission concluded that the rationale for applying the utilization threshold in a non-pooling environment applies equally in a pooling environment. n158 WorldCom seeks reconsideration of the Commission's extension of the utilization threshold to pooling carriers, arguing that there is a no record basis for establishing a utilization threshold for pooling carriers. n159

n157 *Second Report and Order, 16 FCC Rcd at 319, para. 27-28.*

n158 *Id.*

n159 WorldCom Petition at 1.

56. Requiring all carriers to meet the utilization threshold helps ensure that requests for additional numbering resources are needs-based. It furthers our numbering resource optimization policies by ensuring that all carriers retain only the numbers that they need in their inventories. We conclude that exempting pooling carriers from the utilization requirement will undermine the efficiencies [**69] that we have achieved by requiring non-pooling carriers to meet a utilization threshold. The need for a utilization threshold is especially present in large metropolitan areas where the demand for numbering resources is the greatest. Utilization thresholds provide an objective measure of determining when carriers are in need of additional numbering resources, and they provide a competitively neutral means for assigning numbering resources when and where needed. Accordingly, we affirm that the utilization threshold is appropriate for pooling carriers.

C. Safety Valve

1. Background

57. In the *Second Further Notice of Proposed Rulemaking*, the Commission sought comment on the need to establish a "safety valve" apart from the general waiver process to allow carriers that do not meet the utilization threshold in a given rate center to obtain additional numbering resources. Specifically, the Commission sought empirical

data on the extent to which this problem exists, possible solutions (e.g., intra-company and intra-rate center pooling or porting of unassigned numbers among switches), and comment on whether the NANPA or state commissions should be given the authority to decide [**70] requests for waiver in certain narrowly defined instances.

58. The Commission noted that certain conditions might prevent carriers from meeting the rate center-based utilization threshold when they actually need additional numbers. n160 These conditions might include situations where a carrier has multiple switches within a rate center but it is unable to readily share numbering resources among those switches. n161 In addition, some commenters suggested that a safety valve may be warranted where a carrier is unable to meet the utilization threshold because it has a large block of intermediate numbers that must be made available to other carriers and are unavailable for use by the carrier to provide service to its [*280] customers. n162

n160 *Second Report and Order, 16 FCC Rcd at 381, para. 188.*

n161 *Id. at 380-81, para. 187.*

n162 *Id.*

59. Most carriers support the use of a safety valve mechanism, particularly where a new switch is put into service to increase capacity in a given rate center. n163 Other carriers support use of a safety valve when the growth requirements cannot be met and numbering resources are needed [**71] to meet a specific customer request. n164 In contrast, Cox opposes an explicit safety valve for utilization waivers. n165 It argues that a safety valve runs counter to the Commission's number usage and assignment goals and may become the rule rather than the exception. n166 None of the commenters provided empirical data on the extent to which carriers are unable to comply with the growth numbering resource requirements and yet need numbering resources in order to serve customers. n167

n163 Verizon Comments at 2; Warner Telecom Comments at 7-9.

n164 ALTS Comments at 18; Focal Communications Comments at 7.

n165 Cox Comments at 16.

n166 *Id.*

n167 Since the growth requirements became effective on May 8, 2001, the Common Carrier Bureau has received five waiver requests.

60. The state commissions urge caution in creating a safety valve mechanism, and note that it should be applied only in exceptional circumstances. n168 The Pennsylvania PUC suggests that state commissions should have the flexibility to grant waivers within the context of a nationally mandated utilization threshold. n169

n168 Texas PUC Comments at 19; Ohio PUC Comments at 28-29; New Hampshire PUC Comments at 7. [**72]

n169 Pennsylvania PUC Comments at 9.

2. Discussion

61. We agree with the commenting parties that a safety valve mechanism should be established, and we delegate authority to state commissions to hear claims that a safety valve should be applied when the NANPA or Pooling Administrator denies a specific request for numbering resources. n170 State commissions should only apply a safety valve mechanism as a last resort and, to the extent possible, use it as a stop gap measure to enable carriers in need of additional numbering resources to continue to serve their customers. We adopt one specific safety valve to address the numbering resource requirements of carriers experiencing rapid growth in a given rate area. We also clarify that states may grant requests by carriers that receive a specific customer request for numbering resources that exceeds their available inventory. Finally, we give states some flexibility to direct the NANPA or Pooling Administrator to assign

additional numbering resources to carriers that have demonstrated a verifiable need for additional [*281] numbering resources outside of these specifically enumerated instances.

n170 See Ad Hoc Telecommunications Users Comments at 36-37; BellSouth Comments at 31. [**73]

62. We share Cox's concern that the safety valve mechanism not be used to circumvent our growth resources requirements. When applying the safety valve, state commissions must take into consideration the extent to which the carrier has used available numbering resource optimization strategies, including intra-company porting. Carriers should pursue all available measures before applying for a "safety valve" waiver. The burden is on the carrier requesting application of the safety valve to demonstrate that deviation from the growth requirements is warranted. We reject Qwest's suggestion that carriers need only certify that they have met the safety valve parameters. As discussed in the prior orders, self-certification defeats the purpose of establishing needs-based tests. n171

n171 *See First Report and Order, 15 FCC Rcd at 7610-13,* paras. 86-92.

63. We establish a safety valve to ensure that carriers experiencing rapid growth in a given market will be able to meet customer demand. States may use this safety valve to grant requests from carriers that demonstrate the following: 1) the carrier will exhaust its numbering resources in a market or rate area [**74] within three months (in lieu of the 6 months-to-exhaust requirement); and 2) projected growth is based on the carrier's actual growth in the market or rate area, or on the carrier's actual growth in a reasonably comparable market, but only if that projected growth varies no more than 15 percent from historical growth in the relevant market.

64. We also agree with WinStar that a carrier should be able to get additional numbering resources when there is a verifiable need due to the carrier's inability to satisfy a specific customer request. n172 We therefore clarify that states may also grant relief if a carrier demonstrates that it has received a customer request for numbering resources in a given rate center that it cannot meet with its current inventory. Carriers may demonstrate such a need by providing the state with documentation of the customer request and current proof of utilization in the rate center. States may not accommodate requests for specific numbers (i.e., vanity numbers), but may grant requests for customers seeking contiguous blocks of numbers. Any numbering resources granted for this reason may be initially activated only to serve the requesting customer for whom [**75] the application was made. If the customer request is withdrawn or declined, the requesting carrier must return the numbering resources to the NANPA or Pooling Administrator, and may not retain the numbering resources to serve other customers without first meeting our growth numbering resource requirements.

n172 WinStar Comments at 9.

65. Additionally, we do not wish to foster practices that encourage carriers to use numbering resources in a manner that segments service offerings or customer classes (e.g., using separate switches and blocks of numbering resources for specific services or customer classes). We find that such practices are inconsistent with our numbering resource optimization goals. Although new numbering resources are used by carriers to activate new switches, we encourage carriers to pursue other alternatives, such as pooling, to activate those switches and to prevent numbering resources from becoming stranded as the result of installing multiple switches in the same rate center. The safety valve mechanism should be narrowly applied to meet specific [*282] customer requests or to meet a carrier's immediate numbering needs. We nevertheless will allow states to consider [**76] requests from carriers with multiple switches in a given rate center to determine whether relief is warranted on a case-by-case basis.

66. Finally, we recognize that in many instances, the failure to address a request for additional numbering resources can impair a carrier's ability to stay in or expand business. We therefore direct states to act on carrier requests for a safety valve as expeditiously as possible. Although we do not establish a specific time limit for states to act on these requests, we believe that, in most instances, 10 business days from receipt of a request that the state determines to be sufficiently detailed and complete will be sufficient time to review and act upon safety valve requests. If a state does not reach a decision on a safety valve request within a reasonable timeframe, carriers may submit such requests to the Commission for resolution. In addition, carriers may appeal to the Commission safety valve decisions made by states, and we delegate authority to the Common Carrier Bureau to review such petitions as expeditiously a possible.

V. SERVICE-SPECIFIC AND TECHNOLOGY-SPECIFIC AREA CODE OVERLAYS

67. In the *Second Report and Order*, the Commission [**77] decided to revisit the prohibition against service-specific and technology-specific overlays (collectively specialized overlays or SOs). n173 In this Order, we grant, in part, the petitions of California, Connecticut, Indiana, Massachusetts, Ohio, and Pennsylvania by lifting the ban on SOs, and will allow state commissions seeking to implement SOs to request delegated authority to do so on a case-by-case basis. n174 We decline, at this time, to address the merits of the state petitions seeking specific authority to implement SOs, but invite these states and others to supplement their petitions or seek delegated authority to implement SOs in accordance with the criteria outlined below. n175

n173 *See Second Report and Order, 16 FCC Rcd at 306, 359-66,* paras. 124-143. In a service-specific overlay, numbering resources are assigned to carriers that provide a particular type of service or services, such as unified messaging and or vehicle response (e.g., OnStar) services. In contrast, numbering resources in a technology-specific overlay are assigned to carriers that use a particular type of technology or technologies, such as wireless. For convenience, we will refer to both service-specific and technology-specific overlays collectively as SOs. [**78]

n174 *See* Common Carrier Bureau Seeks Comment on a Petition of the California Public Utilities Commission and the People of the State of California for a Waiver to Implement a Technology-Specific or Service-Specific Area Code, *Public Notice, 14 FCC Rcd 7490 (1999);* Connecticut Department of Public Utility Control Files Petition for Rulemaking, Public Comment Invited, *Public Notice, 13 FCC Rcd 7416 (1998); Petition of the Connecticut Department of Public Utility Control for Authority to Conduct a Transitional Service/Technology Specific Overlay Trial*, filed Mar. 12, 2001 (Connecticut Petition); *Petition of the Indiana Utility Regulatory Commission for Waiver of 47 C.F.R. § 52.19(c)(3)*, filed Apr. 17, 2001; Common Carrier Bureau Seeks Comment on Massachusetts Department of Telecommunications and Energy Petition for Waiver to Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes, *Public Notice, 14 FCC Rcd 5083 (1999);* Common Carrier Bureau Seeks Comments on the Ohio Public Utilities Commission's Petition for Delegation of Additional Authority to Implement Number Conservation Measures, *Public Notice*, DA 99-2016 (1999). Common Carrier Bureau Seeks Comment on the Pennsylvania Public Utility Commission's Petition for Delegation of Additional Authority to Implement Number Conservation Measures, *Public Notice, 15 FCC Rcd 2904 (2000).* [**79]

n175 *See, e.g.*, California Commission Comments at 2-3; Connecticut Commission Comments at 7-10; Florida Commission Comments at 5; Illinois Commission Comments at 4-7; Michigan Commission Comments at 1-2; New Hampshire Commission Comments at 5-6; New York State Department of Public Services Comments at 1-2; Ohio Commission Comments at 5; and Texas Commission Comments at 7-8.

[*283] 68. *Background.* In 1996, the Commission rejected a wireless-only overlay plan for the 708 NPA proposed by Ameritech after determining that the plan was unreasonably discriminatory and was an unjust and unreasonable practice in violation of sections 202(a) and 201(b) of the Act. n176 In the *Local Competition Second Report and Order*, the Commission applied principles set forth in the *Ameritech Order* n177 to prohibit SOs, reiterating that such plans would be unreasonably discriminatory and unduly inhibit competition. n178 In 1999, however, the Commission decided to reconsider whether to modify or lift the prohibition on SOs, based on the increased urgency of the numbering crisis and the broader issues raised in the *Numbering Resource Optimization* proceeding. n179 In the *Notice*, the Commission [**80] sought comment on whether to consider exceptions to the prohibition on a case-by-case basis or to adopt general guidelines, and whether requests for SOs should be addressed at the federal level or whether state commissions should have authority to implement SOs applying federal guidelines. n180 The issue was revisited in the *Second Report and Order*, which noted that commenters in response to the *Notice* argued that changes in the use of numbering resources warranted reconsideration of this ban. n181 The Commission also sought comment on a proposal by the Joint Wireless Commenters (JWC) to adopt a framework for allowing transitional SOs subject to certain conditions. n182

n176 *See Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech - Illinois, Declaratory Ruling and Order, 10 FCC Rcd 4596, 4607-12,* paras. 25-29, 33-35 (1996) (*Ameritech Order); see also 47 U.S.C. § § 201*(b), 202(a).

n177 Administration of the NANP should (1) seek to facilitate entry into the communications marketplace by making numbering resources available on an efficient and timely basis; (2) not unduly favor or disadvantage a particular industry segment or group of consumers; and (3) not unduly favor one technology over another. Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392, 19516-17, para. 281 (1996)* (citing *Ameritech Order, 10 FCC Rcd at 4604, para. 18) (Local Competition Second Report and Order), vacated in part, California v. FCC, 124 F.3d 934 (8th Cir. 1997), rev'd AT&T v. Iowa Utils. Bd., 199 S. Ct. 721 (1999).* [**81]

n178 See *Local Competition Second Report and Order, 11 FCC Rcd at 19518, para. 285 (1996).*

n179 *Notice, 14 FCC Rcd at 10431, para. 257.*

n180 *Id. at 10432, para. 261.*

n181 *Second Report and Order, 16 FCC Rcd at 361, para. 128.*

n182 *See Second Report and Order, 16 FCC Rcd at 361-63, 364-66,* paras. 127, 130, 135-141 (citing Letter from Judith St. Ledger-Roty and Todd Daubert, Kelley, Drye & Warren, LLP, to Magalie Roman Salas, Secretary, FCC, dated November 15, 2000 (joint filing on behalf of PCIA, AT&T Wireless, Nextel, Verizon Wireless Messaging Services and VoiceStream Wireless) and letter from Celia Nogales, SBC, to Magalie Roman Salas, Secretary, FCC, dated November 19, 1999). In the transitional SO, the SO would convert into an all-services overlay at a designated time or when certain events occurred, such as the exhaust of the underlying area code.

69. Although most commenters appear to presume that any SO approved by the Commission would be applicable only to wireless and paging providers, we do not limit [**82] our discussion of SOs to those carriers. SOs may also include technologies and services other than [*284] or in addition to wireless services. For example, a service-specific overlay could include services that generally do not require numbers from a specific geographic area (e.g., some data services, automatic teller machines (ATMs), and unified messaging services), or a technology-specific overlay could include broader groups of technologies (e.g., non-pooling carriers). We therefore address SOs in this broader context.

70. *Discussion.* A number of commenters favor lifting the ban on SOs, n183 arguing, among other things, that the life of existing area codes used by pooling carriers could be prolonged by creating SOs for exclusive assignment to non-pooling service providers. n184 Other commenters oppose such a measure, because they believe that SOs are discriminatory. n185 Moreover, they contend that SOs would not improve number efficiency and would accelerate exhaust of the NANP by dividing demand for numbers by service or technology. n186 Most commenters that oppose lifting the ban, however, seem more amenable to SOs that are transitional in nature. n187 For example, some wireless [**83] carriers state that in areas where an area code is in jeopardy, a technology-specific overlay could be created for use by non-pooling carriers and then converted to an all-services overlay when such carriers become pooling-capable. Thus, at least in the context of transitional SOs, earlier concerns raised over the potential discriminatory effects of SOs have been tempered by carriers' concerns over the availability of numbering resources in certain areas, particularly where state commissions have postponed needed area code relief.

n183 Ad Hoc Comments at 3, 6 (imminent exhaust of the NANP justifies the use of SOs); Cox Comments at 2 (expanded SOs should ensure that numbering resources are not being underutilized within that SO); Illinois Commerce Commission Comments at 7 (expanded SOs were not included in the proposal rejected by the FCC in the *Ameritech Order*); Michigan PSC Reply Comments at 3 (lifting the prohibition on SOs would provide state commissions with more options for providing area code relief); NASUCA Comments at 5-6; Ohio PUC Comments at 5 (state commissions should be allowed to determine whether a SO should be transitional).

n184 *See, e.g.*, Ad Hoc Comments at 3. [**84]

n185 *See, e.g.*, BellSouth Comments at 3, 10; Cingular Comments at 8; PCIA Comments at 7 (wireless carriers often compete with wireline carriers); Sprint Reply Comments at 8, 10 (SOs would not improve number conservation or the efficient use of numbering resources, even if the Commission required take-backs because the wireless carriers' level of number utilization would be the same in the SO); USTA Reply Comments at 2; Verizon Wireless Reply Comments at 3; VoiceStream Comments at 3-4; WinStar Comments at 1-2.

n186 *See, e.g.*, Sprint Reply Comments at 10; WorldCom Reply Comments at 2.

n187 *See, e.g.*, BellSouth Comments at 3, 10; Cingular Comments at 6-8; PCIA Comments at 7, 8; Verizon Wireless Reply Comments at 3; VoiceStream Comments at 3-5.

71. Despite an apparent shift in views on the potential discriminatory effects of SOs, we continue to be concerned that placing specific services and technologies in SOs could have an adverse impact on the affected customers and service providers. n188 For example, consumers may be dissuaded from signing up for wireless service if they do not have access to numbers in the [*285] "incumbent" area code. In the *Ameritech Order* [**85] , we considered whether, in light of such discriminatory effects, the different terms or conditions as applied to a specific group of service providers were "just and reasonable under the circumstances." n189 At that time, we found that they were not.

n188 Particularly, we question NASUCA's argument that discrimination does not exist for wireless providers because they serve a separate market. *See* NASUCA Comments at 6. *See also Wireless Order, 16 FCC Rcd at 13381, 13382* (acknowledging that, for some consumers, wireless service has replaced wireline service, and that some wireless carriers have been competing directly with local wireline providers).

n189 *See Ameritech Order, 10 FCC Rcd at 4607,* para, 25 (citing *MCI Telecommunications Corp. v. FCC, 842 F.2d 1296 (D.C. Cir. 1988).*

72. We now believe, however, that circumstances have changed since the *Ameritech Order* that justify lifting the blanket prohibition on SOs and, instead, we will consider SO proposals on a case-by-case basis. First, carriers in 1996 were not faced with the exigent numbering shortages that exist today. [**86] Thus, the benefits of making more numbering resources available through SOs may, in some circumstances, outweigh their potential discriminatory effect. Second, in recent years, there has been a proliferation of new telecommunications services that use vast amounts of numbering resources but do not necessarily need numbering resources from a particular geographic area. n190 If, through the use of service-specific overlays for such services, geographic identity for some areas can be preserved, that too might outweigh any potential discrimination.

n190 Examples of these services include atms, On-Star, and unified messaging services.

73. We disagree with Sprint that re-examination of the ban on SOs is not justified by changes in the use of numbering resources. n191 We find that, given the potential for premature NANP exhaust, we should examine all options, including SOs, which may be able to provide some form of relief to the numbering resource shortage. Thus, we can no longer fully embrace the notion that placing certain technologies and services in a separate overlay is necessarily *unreasonably* discriminatory, particularly if numbering resource optimization benefits are realized. [**87] We continue to focus on our goals of numbering use efficiency, nevertheless, and agree with commenters that in some cases, SOs may not promote number efficiency. We therefore set forth criteria below to provide some guidance to states on what types of proposals would likely merit our approval, and to help ensure that the numbering resource optimization benefits of any proposed SO are realized.

n191 Sprint Reply Comments at 8.

74. We have not pre-determined how the optimal SO would be structured, but believe that some SOs would be more likely to achieve our optimization goals than others. For example, as a general matter, we are extremely reluctant to consider permanent technology-specific overlays, because of the likelihood that numbering resources in the technology-specific overlay would lie fallow. Therefore, a technology-specific overlay that includes, for example,

wireless and paging carriers, that is transitional in nature, that avoids take-backs, and that covers a sufficiently large geographic area such that the demand for numbers is substantial, would likely pass muster. We would also likely favor service-specific overlays that would include non-geographically sensitive [**88] services (such as data lines like those used for automatic teller machines or credit card approval, unified messaging services, or vehicle response systems such as OnStar) and that would require take-backs of such numbers from established area codes. Such service-specific overlays could even be permanent, to the extent that the demand for use of such numbers was sufficient to [*286] adequately utilize the service-specific overlay area code, which could be achieved if the geographic area covered by the service-specific overlay was sufficiently large. We emphasize that these examples are illustrative and not dispositive of any pending petition, since each area must be examined and evaluated on a case-by-case basis. Carriers should continue to work with the NANPA and state commissions to develop creative solutions to prevent premature exhaust of the NANP, including the possible use of service-specific overlays across multiple jurisdictions. We believe the NANC would be an appropriate forum for discussing such creative solutions.

A. Benefits and Costs of SOs

75. The only actual data we have on the potential benefits of SOs, from a numbering resource optimization perspective, come from the [**89] technology-specific overlay implemented in New York City by the New York Public Service Commission (New York Commission). The New York Commission implemented the 917 overlay in 1992, prior to the Commission's prohibition of SOs. n192 Expecting exhaust of the 212 NPA by 1993, the New York Commission adopted a plan to implement the 917 overlay, under which new wireless and paging customers would receive numbers in the 917 NPA. Under that plan, existing paging customers were transitioned to the 917 NPA over a four-year period, and existing Bronx and Manhattan wireless customers were relocated to the 917 NPA over a six-year period. The plan also moved Bronx landline customers from the 212 NPA to the 718 NPA, and called for the inclusion of certain designated wireline services in the 917 overlay at an unspecified point in time. n193 By 1999, wireline customers were also receiving numbers from the 917 overlay. n194

n192 Proceeding on Motion of the Commission Pursuant to Section 97(2) of the Public Service Law Concerning the Supply of Telephone Numbers Available to New York Telephone Company in New York City. *Order Approving Stipulation*, Case 90-C-0347 (Issued and effective Jan. 7, 1991) (*New York Order*). [**90]

n193 At that time, Bellcore stated that, under national guidelines, all area codes had to be associated with landline services that had a geographic identity. *See generally, New York Order.*

n194 *See* Gersh Kuntzman and Emily Lambert, *Looking for 212? Your Number's Up*, N.Y. Post, June 28, 1999.

76. As a result of this overlay plan, the 212 and 718 NPAs did not need relief again until 1999. n195 The life of the 212 NPA was thus prolonged for six years beyond projected exhaust in part due to the implementation of the 917 technology-specific overlay. In addition, although the 917 NPA has now reached exhaust, it is currently estimated that the other area codes in New York City (646, 718, and 347) will last until the first quarter of 2006. n196 Wireless customers in New York reportedly supported having wireless phones and pagers in their own code, which suggests that under some circumstances, the benefits of a specialized overlay may outweigh the [*287] potential discriminatory effects from a wireless consumer perspective. n197 Furthermore, in New York City, the potentially discriminatory effects of take-backs n198 on paging and wireless providers and customers were likely [**91] mitigated by the phased-in schedule, which allowed a gradual transfer of previously existing wireless and paging subscribers to the 917 SO.

n195 At that time, the New York Commission adopted a plan to implement the 646 and 347 NPAs as all-services overlays. This information is available at <http://www.nanpa.com>. In addition, voluntary thousands-block number pooling in the 212 and 718 NPAs did not commence until July 1, 1998 and March 1, 1999, respectively, and mandatory pools commenced on August 31, 2001. This information is available at <http://www.numberpool.com>.

n196 *Id.* Thus, over a ten-year period, from 1996 to 2006, only two new area codes will have been implemented in New York City.

n197 *See, e.g.*, Eric Malnic, *New Area Code Coming to Some in North O.C.*, Los Angeles Times, Mar. 23, 1994 (noting that the customers of NYNEX, a telephone company serving New York state, reacted positively to the 917 SO).

n198 Take-backs in New York City required existing paging and wireless subscribers with numbers in the 212 and 718 NPAs to change their numbers to the 917 SO.

77. The New York experience suggests that there may be circumstances in which SOs are beneficial [**92] because they prolong the life of the underlying area code by placing certain technologies and service providers into a separate area code, n199 thereby easing the cost and inconvenience of frequent area code relief. SOs may also benefit consumers by facilitating the preservation of geographic identity for wireline customers in a particular area. Finally, and perhaps most significantly, SOs can make available additional resources to certain service providers that would otherwise be subject to rationing or other limitations on access to numbering resources because they operate in an area with thousands-block number pooling, but are not capable of participating in pooling.

n199 SOs may be particularly beneficial for non-pooling service providers that significantly drain numbering resources because they must take 10,000 instead of 1,000 numbers at a time.

78. On the other hand, SOs can also have significant costs associated with them. In the *Ameritech Order* and the *Local Competition Second Report and Order*, we recognized that Ameritech's proposed technology-specific overlay placed wireless and paging providers at a competitive disadvantage because it (1) excluded these providers [**93] from the underlying area code; (2) segregated these providers into a separate area code; and (3) required these providers and their customers to incur the cost and inconvenience of changing their numbers (*i.e.*, surrendering their numbers in the underlying area code and obtaining numbers from the new area code, also referred to as "take-backs"). We therefore must weigh the costs of allowing state commissions to implement SOs against the benefits to be realized.

79. We believe that, in some areas, SOs may offer a viable alternative to traditional forms of area code relief. We recognize the frustration experienced by state commissions that must choose the best form of area code relief, the frustration of carriers unable to obtain numbers due to delays in area code relief, and the frustration of consumers who must bear the cost and inconvenience of area code relief. We thus will review on a case-by-case basis, at least initially, each scenario to determine whether a proposed SO would likely result in numbering resource optimization in a given area. n200 Accordingly, we lift the prohibition on SOs and will allow states [*288] to seek specific authority to implement SOs on a case-by-case basis. [**94]

n200 We agree that public opinion and the use of expanded overlays are factors in support of SOs. However, commenters fail to provide evidence, establishing that the public supports SOs, and in particular, that wireless subscribers support giving up their number in favor of implementing a SO (with take-backs). Commenters also fail to provide empirical data establishing that an expanded SO within a particular region would ensure that numbers would be used efficiently. Also, commenters fail to explain how state commissions would handle the exhaust of one of the underlying area codes encompassed by an expanded SO.

B. Criteria for SOs

80. As an initial matter, we emphasize that SOs are another form of area code relief available to state commissions in addition to all-services overlays, area code splits, and area code boundary realignments. As such, any delegated authority granted to state commissions to implement SOs will be limited to areas in which a state has properly determined that area code relief is needed. The effect of allowing SOs to be implemented in areas that are not nearing exhaust could be staggering, because of the potential for multiple requests for area codes [**95] over a short period of time. In direct contravention of our numbering resource optimization goals, this would lead to an acceleration of NANP exhaust. We also emphasize that SOs are numbering resource optimization measures; thus, states seeking to implement a SO must also demonstrate that the benefits will outweigh the costs of implementing the SO.

81. To provide further guidance to state commissions, we set forth the criteria that each request for delegated authority to implement a SO should address. This will enable us to examine the feasibility of SOs in a particular area,

and determine whether the Commission's stated goals are likely to be met if the SO is implemented. As an initial matter, a state commission seeking to implement a SO should discuss why the numbering resource optimization benefits of the proposed SO would be superior to implementation of an all-services overlay. State commissions should also specifically address the following: (1) the technologies or services to be included in the SO; (2) the geographic area to be covered; (3) whether the SO will be transitional; (4) when the SO will be implemented and, if a transitional SO is proposed, when the SO will become [**96] an all-services overlay; (5) whether the SO will include take-backs; (6) whether there will be 10-digit dialing in the SO and the underlying area code(s); (7) whether the SO and underlying area code(s) will be subject to rationing; and (8) whether the SO will cover an area in which pooling is taking place.

1. Technologies and Services

82. To provide any meaningful benefits, a SO should divert significant demand from the underlying area code to extend the life of that area code. We believe, for example, that in areas subject to thousands-block number pooling, non-pooling carriers could receive numbering resources from a SO to relieve demand on the underlying code. Moreover, we agree with commenters that SOs should initially include non-pooling providers, such as wireless and paging providers, as well as non-geographic-based service providers, n201 who are also unable to participate in thousands-block number pooling. We specifically favor service-specific overlays that would include and retain non-geographic based services as a means to further reduce the demand in the underlying area code. State commissions seeking delegated authority to implement a SO should therefore provide [**97] specific information on which technologies and services will be placed in any proposed SO.

n201 *See, e.g.*, Ad Hoc Comments at 3; Connecticut Department of Public Utility Control Comments at 8; Illinois Commerce Commission Comments at 5. Non-geographic-based services include unified messaging services and automobile-based services such as OnStar. Consumers of such services are likely unaware of, or have no preference for, where their number comes from.

[*289] **2. Geographic Area**

83. A number of commenters support expanded SOs, *i.e.*, SOs that cover multiple existing area codes. n202 The Ohio Commission suggests that the SO could cover entire regions within a state. Other commenters believe, on the other hand, that SOs should conform to existing area code boundaries. n203 The Connecticut Commission raises concerns about how expanded SOs would affect transition into an all-services overlay. n204 We find that SOs that cover more than one area code are superior from a numbering resource optimization perspective because they would reduce the demand for numbers in multiple area codes, and the increased number of subscribers included in the SO would lead to better utilization of numbering [**98] resources in the SO NPA. We also believe that service-specific overlays that include non-geographic based services may be ideal, from a numbering resource optimization perspective, if implemented across a wide geographic area, including multiple states and encourage states to work together to explore this option. Because we agree with concerns raised regarding routing and rating issues, however, state commissions proposing expanded SOs should address specifically how they will resolve such issues, especially the rating and routing of calls placed between the underlying area codes and the SO NPA.

n202 *See, e.g.*, Cingular Comments at 7; Illinois Commerce Commission Comments at 7; Ohio PUC Comments at 9, 10; WorldCom Comments at 4.

n203 *See, e.g.*, Connecticut Department of Public Utility Control Comments at 7; CTIA Comments at 7.

n204 Connecticut Department of Public Utility Control Comments at 7.

3. Transitional SOs

84. As discussed in the *Second Report and Order*, the JWC provided a proposal to implement a framework for allowing SOs that would require a "transition" into an all-services overlay at a designated time. Recognizing the need for additional relief [**99] tools, we find that transitional overlays may provide some of the relief that proponents of SOs are seeking but limit the potentially discriminatory effects of creating a permanent SO. Moreover, because transitional SOs eventually include all providers, there is less danger of not being able eventually to utilize all of the numbers in a given SO NPA. We favor technology-specific overlays that are transitional primarily for this reason, and because they offer more flexibility, and thus more benefit. On the other hand, we favor service-specific overlays,

particularly those that include non-geographic-based services, that are permanent in nature because they tend to preserve geographic identity. In addition, we note that there is significant support for transitional technology-specific overlays that are based on specific technologies, such as the ability to participate in thousands-block number pooling. n205

n205 *See, e.g.*, AT&T Corp. Comments at 5-8; BellSouth Comments at 3, 10; Cingular Comments at 6-8; PCIA Comments at 7, 8; Verizon Wireless Reply Comments at 3; VoiceStream Comments at 3-5.

4. When to Implement and Transition SOs

85. Some commenters submit that states [**100] should not be allowed to implement SOs when [*290] the underlying NPA is near jeopardy. n206 BellSouth, for example, argues that the underlying NPA should have a life span of more than one year. n207 Verizon supports prohibiting the use of SOs when to do so would postpone full area code relief; when they would be utilized in areas outside of the top 100 MSAs; and if they would be implemented after November 24, 2002. n208 We believe that, to optimize their value. SOs should not be implemented when the underlying NPA has a projected life span of less than one year. n209 For transitional SOs, this time frame should allow consumers to experience the benefits of the transitional overlay before it converts into an all-services overlay. At the same time, we do not want to encourage states to open new NPAs prematurely. If this occurred, SOs could accelerate NANP exhaust rather than alleviate it. Therefore, we will generally not grant authority to create SOs until the state commissions have determined, in accordance with our rules and orders, that area code relief is needed. This will enable states to take advantage of pooling and other numbering resource optimization measures. in addition to the [**101] SO, to extend the life of the underlying NPA.

n206 *See, e.g.*, ALTS Comments at 5; BellSouth Comments at 5; Cingular Comments at 7.

n207 BellSouth Comments at 5-6.

n208 Verizon Comments at 7.

n209 We acknowledge that in some instances, such as when a state already scheduled area code relief and can demonstrate the benefits of implementing a transitional SO in lieu of an all-services overlay, a SO may be appropriate. *See generally*, Connecticut Petition.

86. In the case of transitional SOs, generally most commenters support transition to an all-services overlay when the underlying area code nears exhaust or when wireless carriers are able to participate in thousands-block number pooling. n210 Regarding transitional SOs in which criteria other than pooling capability is used to determine which carriers are placed in the SO (e.g., a wireless only overlay), the exhaust trigger can conserve NPAs because, by making additional numbering resources available to those served by the underlying area code, additional area code relief can be delayed. It is likely that states would gain additional time to implement other numbering resource optimization measures, thereby potentially [**102] increasing the life of the underlying area code even further. If the pooling trigger is used, all transitional overlays would be scheduled to transition by November 24, 2002, the deadline for wireless carriers to pool. This deadline would, unlike the exhaust trigger, diminish the benefits of the transitional SOs, by, in effect, providing relief for the underlying area code prematurely. We therefore favor the exhaust trigger in cases where criteria other than pooling capability is used to determine which carriers are placed in the SO.

n210 *See, e.g.*, ALTS Comments at 6 (supporting transition on November 24, 2002); BellSouth Comments at 7; Connecticut Department of Public Utility Control Comments at 8 (transition should occur when underlying NPA nears exhaust); PCIA Comments at 9; Verizon Wireless Comments at 11; VoiceStream Comments at 7.

87. In the case of transitional SOs for non-pooling capable carriers, we find that there are arguments in favor of transitioning into an all-services overlay when carriers currently unable to participate in thousands-block number pooling become pooling capable. The benefits of number pooling are enhanced when a larger number of carriers are [**103] able to participate in pooling within [*291] an NPA, which diminishes the need to restrict access to the SO to a subset of users of numbering resources. At the same time, we recognize that because of the significant demand for wireless services in some areas, there are arguments that the effectiveness of some SOs can be increased if wireless

carriers continue to be included in SOs even after they are able to participate in thousands-block number pooling. n211 Therefore, if state commissions propose a transitional SO that segregates non-pooling carriers into the SO NPA, they bear the burden of demonstrating why the transition should not occur when wireless participation in pooling commences. State commissions should, in all instances, indicate which of these transition triggers they propose to use, and explain how the proposed transition mechanism meets our numbering resource optimization goals and equitably balances the interests of affected carriers and consumers in their proposal for transitioning SOs to all services overlays.

n211 This approach could help to ensure that the demand for numbering resources in the underlying NPA is not affected by an increase in the demand for wireless services, while increasing the likelihood that the SO is not underutilized. [**104]

5. Take-Backs

88. Most commenters oppose mandatory take-backs, n212 with several commenters arguing that take-backs are anti-competitive to those technologies and service providers that receive numbering resources from the SO NPA. n213 Take-backs require certain providers to reprogram their equipment and change their customers phone numbers. n214 Thus, take-backs result in significant cost and inconvenience to those customers and their service providers that are required to relinquish their existing numbers and use numbering resources in the SO NPA. If take-backs were imposed in the context of a wireless services technology-specific overlay, for example, the costs would be particularly significant due to the large and rapidly growing number of wireless subscribers, particularly in major markets. n215 We acknowledge, therefore, that take-backs have significant drawbacks and costs, which need to be considered in determining whether a SO should include take-backs.

n212 *See, e g.*, AT&T Wireless Comments at 6; BellSouth Comments at 8; Cingular at 6; CTIA Comments at 7; Illinois Commerce Commission Comments at 5; Ohio PUC Comments at 8-9; PCIA Comments at 8; Verizon Comments at 8; VoiceStream Comments at 6. [**105]

n213 *See, e.g.*, AT&T Wireless Comments at 6; Illinois Commerce Commission Comments at 5; Ohio PUC Comments at 8-9; Verizon Wireless Comments at 8; VoiceStream Comments at 5-6. Other commenters support take-backs only under certain circumstances. For example, the Connecticut Department of Public Utility Control supports take-backs, but only for unopened NXX codes, and Cox supports take-backs only for certain service providers such as point-of-service technologies that have little impact on the public. Connecticut Department of Public Utility Control Comments at 6; Cox Comments at 4-5.

n214 However, as Ad Hoc notes, wireline providers and their subscribers experience the cost and inconvenience of take-backs when a geographic split occurs. *See* Ad Hoc Comments at 4.

n215 According to data set forth by the CTIA, wireless subscribership has more than tripled since 1995. *See* FCC, Common Carrier Bureau. Industry Analysis Division. *Trends in Telephone Service.* Table 12.2 (as reported by the CTIA) (Aug. 2001). This report is available at <http://www.fcc.gov/ccb/stats>. *See also* Cahners In-Stat Group Expects 32% Increase in Wireless Phone Use by Corporate Employees by 2000, *Press Release* (Oct. 5, 1998). This document is available at <http://www.instat.com/pr/1998/wir-ser.htm>. [**106]

[*292] 89. We decline to impose a blanket prohibition against take-backs, however. In some instances, the use of take-backs may enhance the effectiveness of SOs, from a numbering resource optimization perspective, by freeing up numbering resources in the underlying area code. Take-backs could increase the life of the underlying NPA, which, in turn, would preserve the geographic identity of a given area. Conversely, creating SOs without freeing up numbering resources in the underlying area code may not provide meaningful benefits because the life of the underlying NPA would not likely be significantly prolonged. n216 There may also be instances in which the impact of take-backs on consumers can be mitigated either through voluntary incentives for consumers to relinquish their numbers or by limiting take-backs to services or technologies in which the telephone number is not directly used by or even necessarily known to the customer. n217

n216 It could be argued, however, that there would be some limited benefit because the demand for additional numbering resources in the underlying NPA would be reduced.

n217 Examples of services where the telephone number is not necessarily known or used directly by the customer include atms, fax machines, and j-fax. [**107]

90. Therefore, although we do not favor take-backs as a matter of policy, we do not completely rule out the possibility of states using take-backs under circumstances designed to mitigate their potential harmful effects. Specifically, we would likely favor service-specific overlays that include take-backs of non-geographic-based numbers, but we would likely oppose technology-specific overlays that would include take-backs of numbers that are geographically sensitive. To ensure that the costs and benefits of take-backs are given careful consideration, we will require state commissions proposing to use take-backs include a strong showing that the consumer and industry costs associated with take-backs are outweighed by the optimization benefits of the take-backs. In their petitions, state commissions seeking to use take-backs would have to specifically demonstrate that the negative effects of take-backs will be mitigated by the benefits in the particular area by showing, for example, that: (1) consumers, particularly subscribers that would be required to relinquish their telephone numbers, support such a measure; n218 (2) the state will provide incentives for providers and their current [**108] customers to relinquish their numbers in the underlying area code; and (3) a phased-in approach will help ease the cost burden on customers and service providers.

n218 Evidence of strong consumer support would weigh in favor of allowing take-backs, because consumers, especially wireless consumers, would be the primary group to be negatively impacted.

6. Ten-Digit Dialing

91. In the *Second Report and Order*, we asked commenters whether ten-digit dialing should be imposed for transitional SOs. n219 The JWC proposed a waiver of ten-digit dialing until either the transitional SO transformed into an all-services overlay or November 24, 2002. In response, most, but not all, commenters agree with JWC's proposal. CTIA, for example, states that any waiver of the ten-digit dialing requirement should cease when the pooling administrator receives NXX codes from the new NPA or when wireless pooling commences, whichever comes [*293] first. n220 A number of state commissions do not support ten-digit dialing, n221 and the Connecticut Commission only supports ten-digit dialing once competition is demonstrated between wireline and wireless providers and the transitional SO has been converted into [**109] an all-services overlay. n222

n219 *See Second Report and Order, 16 FCC Rcd at 365, para. 137.*

n220 CTIA Comments at 8.

n221 *See, e.g.*, Michigan PSC Comments at 2; New York State Department of Public Service Comments at 2; State Coordination Group Outline at 1.

n222 Connecticut Department of Public Utility Control Comments at 10.

92. Because we continue to believe that ubiquitous ten-digit dialing when an overlay is implemented would maximize numbering resource optimization, n223 we favor SO proposals that include ten-digit dialing in the SO NPA as well as the underlying area code, in the same manner that ten-digit dialing is required when all-services overlays are implemented. Mandatory tendigit dialing, we believe, minimizes anti-competitive effects due to dialing disparities, which, in turn, avoids customer confusion. n224 We, nevertheless, will not necessarily require ten-digit dialing with SOs at this time, at least not until we are better able to determine whether a temporary waiver of the ten-digit dialing requirement in any way increases the use and effectiveness of SOs. We emphasize that, although temporary waivers might be [**110] warranted, it is not likely that requests for permanent waiver of the ten-digit dialing requirement, especially after a transitional SO is expanded to include all services, will be granted. State commissions seeking a waiver of the ten-digit dialing requirement should clearly indicate when any requested waiver would terminate.

n223 We note that the U.S. Court of Appeals recently affirmed the Commission's authority to require ten-digit dialing when an all-services overlay is implemented. *See People of the State of New York et al. v. Federal Communications Commission*, Docket No. 99-4205 (2nd Cir. 2001).

n224 See *Local Competition Second Report and Order, 11 FCC Rcd at 19518-19, para. 287.*

7. Rationing

93. Rationing is a number conservation measure that limits the amount of numbering resources made available for allocation to carriers in a given area, in accordance with an industry-implemented or state-implemented rationing plan. n225 Rationing may be implemented pursuant to a declaration by the NANPA that a jeopardy situation exists, which means that the underlying area code is projected to exhaust before the new area code is scheduled [**111] to be implemented. n226 Some state commissions have been delegated authority to continue an established rationing plan for six months after the new area code is activated. n227 A number of [*294] commenters agree with the JWC that rationing in the underlying area code should cease upon implementation of the transitional SO, n228 and that rationing should not occur in the transitional SO once it is established. n229 We find that any SO that achieves the purposes for which it is implemented (that is, the availability of numbering resources is increased for all carriers), should not need to be subject to rationing. Thus, we agree with commenters that neither the SO NPA nor the underlying area code(s) should be subject to rationing.

n225 *See, e.g.*, Petition for Declaratory Ruling and Request for Expedited Action on July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, *Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd at 19025-19027,* paras. 23-26; see also Central Office Code (NXX) Assignment Guidelines (95-0407-008), § 9.0, September 2001, available at <www.atis.org>.

n226 *See id.* [**112]

n227 Currently, several states have authority to continue rationing in both the overlay area code and the underlying area code for a period of six months after area code relief is implemented. *See, e.g.*, Numbering Resource Optimization, *Order, 16 FCC Rcd 15842, 15857-15858,* paras. 39-42 (2001) (delegating authority to the Michigan Public Service Commission); Numbering Resource Optimization, *Order, 16 FCC Rcd 5474, 5490-5491,* paras. 37-38 (2001) (delegating authority to the West Virginia Public Service Commission); Florida Public Service Commission Petition for Expedited Decision for Grant of Authority to Implement Number Conservation Measures, *Order, 14 FCC Rcd 17506, 17517-17518,* paras. 25-28 (1999).

n228 *See, e.g.*, BellSouth Comments at 10; CTIA Comments at 9.

n229 WorldCom Comments at 3.

8. Thousands-Block Number Pooling

94. Most commenters argue that SOs should only be implemented in areas where thousands-block number pooling has been implemented. We disagree. We encourage states to use the numbering optimization measures available to them, but for area codes that [**113] do not qualify for pooling, implementing a SO may still be a viable option, particularly if non-pooling providers possess a significant portion of the underlying area code's numbering resources. Thus, SOs will be allowed in non-pooling areas provided the state commissions can justify the SO based on the criteria set forth in this Order. In particular, we will closely scrutinize any plans for SOs in non-pooling area codes to ensure that number utilization is sufficiently high. Also, the Commission will look favorably upon petitions from state commissions pursuing other numbering optimization measures in the underlying area code, such as rate center consolidation and unassigned number porting, and recommends that such measures be noted in their petitions. We also clarify that, as with all-services overlays, pooling must be implemented in the SOs if it covers an area in which pooling is taking place.

VI. OTHER NUMBERING RESOURCE OPTIMIZATION MEASURES

A. Audits

1. Enforcement

95. In the *Second Report and Order*, the Commission set forth a comprehensive audit program to verify carrier compliance with federal rules and orders and industry guidelines, n230 and concluded that [**114] auditors in the Accounting Safeguards Division of the Common Carrier Bureau, or other Commission designated agents, would perform the audits. n231 The Commission also stated that carriers found to be in violation of our requirements may be subject to possible enforcement action, which may include monetary forfeitures, revocation of interstate operating [*295] authority and cease and desist orders. n232

n230 *Second Report and Order, 16 FCC Rcd at 344-50,* paras. 81-99.

n231 *Id. at 347, para. 90.*

n232 *Id. at 349, para. 96.*

96. In addition to our traditional enforcement tools, the Commission tentatively concluded that carriers that violate its numbering requirements, or that fail to cooperate with the auditor to conduct either a "for cause" or random audit, should also be denied numbering resources in certain instances, and sought comment on this tentative conclusion. It also sought comment on the process by which this additional remedy should be invoked; specifically, whether only the Commission should direct the NANPA or Pooling Administrator to withhold numbering resources. n233

n233 The Commission noted that section 220(f) bars public-release of audit findings by a member, officer, or employee of the Commission except as directed by the Commission or court. *47 U.S.C. § 220*(f). [**115]

97. We conclude that carriers that are audited and found to have violated our numbering requirements, or that fail to cooperate with the auditor to conduct either a "for cause" or random audit, may be denied numbering resources in appropriate cases. State and industry commenters generally support this conclusion. n234 In their comments, state commissions indicate a growing need for additional penalties for, in particular, carriers that fail to file Numbering Resource Utilization Forecast (NRUF) data because they do not anticipate a need for numbering resources in the near future. n235 Additional penalties may include reclamation of numbering resources, depending on the nature of the violation. By also reaching carriers that fail to cooperate with auditing efforts, we hope to increase the effectiveness of our auditing program.

n234 *See, e.g.*, ALTS Comments at 14; California PUC Comments at 10-11; Cingular Wireless Comments at 17-19; Connecticut Department of Public Utility Control Comments at 3-4; Maine-PUC Comments at 5-6; Maryland PSC Comments at 2; Michigan PSC Comments at 6; NASUCA Comments at 32-33; New Hampshire PUC Comments at 1; Ohio PUC Comments at 22; Pennsylvania PUC Comments at 1. [**116]

n235 That is, unless they need numbering resources there is no incentive for these carriers to file NRUF reports because currently the only penalty is denial of resources until the data is filed. *See, e.g.*, Maine PUC Comments at 1; Maryland PSC Comments at 2; New Hampshire PUC Comments at 1.

98. We further conclude that, to invoke this additional remedy, only the Commission, specifically the Common Carrier Bureau and the Enforcement Bureau, shall direct the NANPA or National Pooling Administrator to withhold numbering resources from carriers for audit-related violations. n236 We decline, at this time, to delegate authority to state commissions or the NANPA to determine when a carrier shall be liable under this provision, primarily to ensure that this remedy is invoked uniformly. We encourage state commissions and the NANPA to work with the Commission to identify violators and target them for enforcement. We also confine the authority to deny numbering resources to the Commission to limit the release of proprietary information contained in audit findings only to those entities that need it to determine compliance with the rules and audit procedures, and to determine liability. [**117]

n236 NANPA shall continue to withhold numbering resources from carriers who fail to comply with the mandatory reporting requirements. *First Report and Order, 15 FCC Rcd at 7609, para. 84.*

[*296] **2. State Commissions' Authority to Conduct Audits**

99. In the *Second Report and Order*, the Commission determined that the audit program would consist of "for cause" and random audits, performed by an auditor designated by the Common Carrier Bureau. n237 Although the Commission recognized that a national program will provide uniformity in the way that audits are conducted, it also recognized that state commissions would benefit from having a role in conducting these carrier audits. n238 The Commission therefore sought comment on whether state commissions should be given independent authority to conduct "for cause" and random audits in lieu of or in addition to the national audit program established in the *Second Further Notice*, and what parameters should apply to any such authority. n239 In particular, commenters were asked to address concerns about state commissions employing different standards in performing "for cause" and random audits that might [**118] force carriers operating in multiple states to comply with different demands. n240 In seeking comment on this issue, the Commission did not address state commissions' authority to perform audits under state law. n241

n237 *Second Report and Order, 16 FCC Rcd at 344-50,* paras. 81-99.

n238 *Id. at 347, para. 92.*

n239 *Id. at 370, para. 155.*

n240 *Id.*

n241 *Id.*

100. Comments by state commissions generally support giving authority to conduct audits in addition to, but not in lieu of, the national audit program. n242 Many contend that state level and national level audit results could and should be shared, possibly by incorporating state results into a national audit and vice versa. n243 Several industry commenters, on the other hand, do not support giving states authority in addition to or in lieu of the national audit program. AT&T, for example, argues that the audits conducted by the states would have the same objective as the national audit plan, thus negating any reason to empower more than one body. n244 In addition, some industry commenters indicate that the Commission [**119] has already taken appropriate steps to ensure an adequate level of state participation in its audit program. n245

n242 *See, e.g.*, Connecticut Department of Public Utility Control Comments at 13; New Hampshire PUC Comments at 6; New York State DPS Comments at 6; Pennsylvania PUC Comments at 7; *but see* Ohio PUC Comments at 24.

n243 *See, e.g.*, California PUC Comments at 11; Connecticut Department of Public Utility Control Comments at 3-4; Maine PUC Comments at 1; Maryland PSC Comments at 2; New Hampshire PUC Comments at 1; Texas PUC Comments at 14.

n244 AT&T Comments at 14-15.

n245 *See, e.g.*, ALTS Comments at 14-15; BellSouth Comments at 21; Cingular Comments at 19-20.

101. The Commission values input from the states and considers coordination with them to be vitally important to advancing our shared policy goals of administering numbering [*297] resources efficiently. We reaffirm that states continue to have authority to conduct audits to the extent permitted under state law. Moreover, in recognition that states can serve a valuable role in helping the Commission to monitor carriers' number use, we clarify that states may conduct audits, at their own expense, [**120] to determine whether a particular carrier is in compliance with the Commission's numbering rules to discharge their own responsibilities. For example, state audits that seek to gather information needed to facilitate area code relief decisions would be appropriate to the extent that the information sought is not available through another source, such as NRUF data reports. n246 This ability, coupled with the states' right to request "for cause" audits under the national auditing program, should provide states with sufficient and effective tools for carrying out their area code relief responsibilities. We expect that state commissions will not conduct audits that are duplicative of our national audits or that request information readily available from other sources. This should alleviate concerns by the industry that state audits would serve the same purpose as Commission audits. n247

n246 *See, e.g.*, California Public Utilities Commission Telecommunications Division, Report on the 619 Area Code, March 13, 2001.

n247 AT&T Comments at 14-15.

102. Pursuant to long-standing delegated authority, we expect the Commission audit staff to cooperate with state commissions by coordinating [**121] compliance and enforcement activities and sharing information gathered in the course of audits under the national audit program. n248 We expect, for example, to share with the requesting state the audit results arising out of any "for cause" audits requested by a state commission. We encourage states believing audits are required in certain circumstances to request "for cause" audits by making a written request to the Commission. n249

n248 *See* 47 C.F.R. § 0.291(b). To improve operating and administrative efficiency, the Commission delegated authority to the Common Carrier Bureau to coordinate compliance and enforcement activities with state commissions when: (i) there is a shared policy interest, and (ii) the states have processes for protecting confidential information. Amendment of Parts 0, 1, and 64 of the Commission's Rules with Respect to Delegation of Authority to the Chief. Common Carrier Bureau. *Report and Order, 5 FCC Rcd 4601 (1990); Delegation of Authority to the Chief, Common Carrier Bureau.* Memorandum Opinion and Order, *50 Fed. Reg. 18-187-03 (1985), on reconsideration, 104 F2d 733 (1986).* [**122]

n249 *Id.* at 345, para. 87.

3. Petitions for Reconsideration and Clarification

103. On March 12, 2001, BellSouth, Qwest, Sprint and USTA each filed a Petition for Reconsideration and/or Clarification requesting that the Commission reconsider certain aspects of its decision requiring audits. First, Qwest requests that the Commission reconsider its decision to require random audits as part of its national audit program and that it give carriers the opportunity to rebut a case for a "for cause" audit. n250 Second, BellSouth requests that the Commission reconsider its decision that all carriers share the costs incurred to conduct "for [*298] cause" audits. n251 Similarly, USTA requests that audits should be paid for by carriers participating in the audits. n252 Finally, Spring requests clarification regarding state's independent authority under state law to conduct number utilization audits. n253

n250 Qwest Petition at 2.

n251 BellSouth Petition at 15-16.

n252 USTA Petition at 7.

n253 Sprint Petition at 12-14. This request has been addressed in the previous section. *See supra* at para. 99-102.

104. *Random Audits.* In the *Second Report and Order*, the Commission [**123] concluded that because "for cause" audits are conducted only if there are specific allegations of non-compliant or inappropriate conduct on the part of a carrier, carrier compliance with our rules and orders and applicable industry guidelines should also be monitored through the use of random audits. n254 The Commission found that random audits, in conjunction with the use of "for cause" audits, would provide the audit program with more flexibility to accomplish the stated goals, and would serve as a strong deterrent. n255 Qwest argues that including random audits as part of our audit program is unsound regulatory policy. n256 Qwest explains that promulgating rules and expecting compliance is the general regulatory model that has worked for decades, n257 and contends that it is simply unnecessary to promulgate rules then create regulation to monitor their enforcement. n258

n254 *Second Report and Order, 16 FCC Rcd at 346, para. 88.*

n255 *Id.*

n256 Qwest Petition at 6.

n257 *Id.*

n258 *Id.* at 6-7.

105. We find Qwest's arguments unpersuasive. The auditing program was established not only to monitor, but also to identify and correct [**124] violations of our rules and orders and applicable industry guidelines. As noted in the *Second Report and Order*, the program can serve to provide a level of confidence in the accuracy of data reported by carriers; n259 ensure that carriers are complying with our rules by serving as a deterrent against non-compliance; n260 and allow us to identify inefficiencies in the manner in which carriers use numbers, such as excessive use of certain categories of numbers such as administrative, aging, or intermediate numbers. We therefore deny Qwest's petition, and retain random audits as part of our national audit program.

n259 *Second Report and Order, 16 FCC Rcd at 344, para. 83.*

n260 *Id.*

106. *Carrier Opportunity to Rebut.* The Commission concluded in the *Second Report and Order* that "for cause" audits may be initiated based on information drawn from a variety of sources. n261 Specifically, the NANPA, the Pooling Administrator, or a state commission may [*299] make a written request to the Common Carrier Bureau to request a "for cause" audit. n262 The request should state the reason for which a "for cause" audit is being requested and include documentation [**125] of the alleged anomaly, inconsistency, or violation of the Commission rules or orders or applicable industry guidelines. n263 The audit staff will determine from the application whether a "for cause" audit is warranted. n264 Qwest accurately points out that the discussion did not address a carrier's ability to rebut the *prima facie* case that would trigger an audit. n265

n261 *Id. at 345, para. 86.*

n262 *Id. at 345, para. 87.*

n263 *Id. at 345-46, para. 87.*

n264 *Id. at 346, para. 87.*

n265 Qwest Petition at 7.

107. We clarify that, although not stated explicitly, the audit program does, in fact, allow carriers to respond to the allegations before any enforcement action is taken as a result of audit findings. We also clarify that requests for a "for cause" should be submitted to the Common Carrier Bureau and the Enforcement Bureau. Once the Bureaus have received a request for a "for cause" audit, the carrier will be notified of that request and be given up to 30 days to respond to the allegation(s). This notification may involve a data request [**126] from the Commission staff and the carrier's response may result in a decision not to proceed with the requested "for cause" audit. If the carrier's response indicates that the alleged violation exists but will be corrected, then the Commission staff can allow the carrier up to 60 days to comply before performing the audit. We note that the Common Carrier Bureau will issue a Public Notice providing additional information on the audit plan shortly.

108. Consistent with standard auditing practices, we expect that the audit process will afford carriers ample opportunity to present their views during the audit, even beyond commenting on an initial allegation or request to conduct a 'for cause' audit. We direct state commissions conducting numbering related carrier audits, in accordance with the parameters set forth herein, to provide carriers the same opportunity to explain their views and/or rebut audit findings. Finally, we note that an audit report itself does not constitute a legal determination of compliance or noncompliance. That determination is reserved for the Commission, and we expect to consider the audited carrier's views in making such judgments.

109. *Auditing Costs.* In [**127] the *Second Report and Order*, the Commission concluded that the costs associated with our comprehensive auditing program are numbering administration costs, and, as such, they should be borne by all telecommunications carriers on a competitively neutral basis, as required by section 251(e)(2) of the Act. n266 In the case of "for cause" audits. BellSouth contends that since these audits will be conducted only if there is an alleged violation of the Commission's rules, the arrangement for auditing costs is unfair to carriers not subject to the "for cause"

audit. n267 BellSouth encourages the Commission to adopt a policy whereby the costs for a "for cause" audit are borne by the carrier subject to that audit, while the costs for [*300] random audits are shared by all carriers. n268

n266 *Second Report and Order, 16 FCC Rcd at 349, para. 98.*

n267 BellSouth Petition at 15.

n268 *Id.* at 15-16.

110. In its request that the Commission reconsider the allocation of auditing costs, USTA's stated concern is that the Commission's policy regarding these costs provides funding that is unchecked and could result in unnecessary audits. n269 USTA encourages [**128] the Commission to maintain the policy whereby carriers that are subject to the audits, not the industry as a whole, pay for audits conducted under the Commission's auspices. n270 To the extent it requires carriers subject to random audits to bear the costs of such audit. KMC Telecom, Inc. (KMC) opposes USTA's request. n271 PCIA also opposes USTA's request, stating that the use of the NBANC fund is the clear method of assuring competitive neutrality. n272 USTA's response to the objections indicate that the Commission's concern that costs are recovered on a competitively neutral basis is seemingly satisfied by recovering costs related to work performed by designated agents through the NBANC fund and thus including auditing costs for numbering in the Commission's fee schedule violates no statutory restriction. n273

n269 USTA Petition at 7.

n270 *Id.*

n271 *See* KMC Opposition at 2 (concluding that such a requirement would be unfair because these carriers are not suspected of violating the Commission's rules regarding numbering).

n272 PCIA Opposition at 2.

n273 USTA Reply at 1-2.

111. We are not persuaded that the costs for audits should not be borne by all telecommunications [**129] carriers on a competitively neutral basis as required by section 251(e)(2). Auditing has general deterrent effects which benefits all carriers by improving the efficiency with which numbering resources are used, and thus, increasing the availability of numbering resources. As such, all carriers should bear the costs of auditing, whether random or "for cause." n274 Moreover, individual carriers subject to "for cause" audits bear additional individual costs to comply that are not attributed to all carriers. Therefore, we believe at this time that all auditing costs are properly borne by all carriers.

n274 These additional costs should not be viewed as punitive in nature, however, since the initiation of an audit is not necessarily an indication that a carrier has done something wrong. The purpose of an audit is not to punish the carrier by imposing additional costs on the carriers that are audited.

B. Reserved Numbers

1. Reconsideration of Reservation Period

112. In the *First Report and Order*, the Commission concluded that *reserved numbers*, defined as numbers held by service providers at the request of specific end use customers for their future use, may be held [**130] in reserve status for a maximum of 45 days. n275 In petitions for [*301] reconsideration n276 of the *First Report and Order*, as well as numerous *ex partes*, n277 several parties asserted that the 45-day reservation period is a major departure from current business practices and should be increased to enable them to meet specific customer needs.

n275 *First Report and Order, 15 FCC Rcd at 7587-88,* paras. 22-23.

n276 *See, e.g.*, AT&T Petition for Reconsideration of *First Report and Order*: SBC Petition for Reconsideration and Clarification of *First Report and Order*: Qwest Petition for Reconsideration of *First Report and Order.*

n277 *See, e.g.*, Letter from Don Melton, Director, State of Arkansas Department of Information Services, to FCC, dated July 21, 2000; Letter from Kathleen B. Levitz, BellSouth, to Magalie Roman Salas, FCC, dated August 25, 2000; Letter from Glen Whitmer, Assistant Director, Computing and Communicating Services Office, University of Illinois, Urbana-Champaign, to FCC, dated August 14, 2000.

113. In the *Second Report and Order*, the Commission concluded that the maximum period for reserving numbers should [**131] be increased to 180 days, n278 and sought comment on the NANC's proposal to allow unlimited reservations on a month-to-month basis in exchange for a fee. n279 The Commission also stated that if a reservation extension fee is mandated in the future, it will reconsider whether the 180-day period remains appropriate. The commenters in this proceeding are fairly evenly split on the issue of extending reservation periods. A number of carriers support extended or unlimited number reservations for a fee. n280 Many of the state commissions and consumer associations, however, oppose extending reservations for a fee and do not believe the current 180-day policy should be altered. n281

n278 *Second Report and Order, 16 FCC Rcd at 355-56, para. 114.*

n279 *Id. at 369, para. 152.*

n280 *See* BellSouth Comments at 20; Cox Comments at 20; Qwest Comments at 5-6; Verizon Comments at 3-4; Winstar Comments at 6; WorldCom Comments at 11.

n281 *See* Ad Hoc Comments at 24; NASUCA Coments at 25-31; New York State Department of Public Service Comments at 4-5; Ohio PUC Comments at 21-22; SBC Comments at 12; State Coordination Group Comments at 5-6; Verizon Wireless Comments at 33-34. [**132]

114. We reaffirm that the 180-day reservation period is sufficient, for the same reasons we discussed in the *Second Report and Order*, and should remain in place. Although they have generally alleged that the 180-day period is insufficient, carriers have not demonstrated or persuasively argued that 180 days is insufficient to accommodate most customer requirements, or how a longer reservation period might be compatible with our number conservation efforts.

2. Fee for Reserved Numbers

115. In addition to the issue of whether the maximum reservation period should be extended and whether to allow extensions, in the *Second Further Notice*, the Commission sought further comment on the NANC's proposal to allow unlimited reservations of numbers on a month-to-month basis. n282 The Commission noted in the *Second Further Notice* the NANC's recommendation that a fee for extensions be established. Specifically, the NANC proposed that [*302] the fee be paid by end users, and the Commission sought comment on whether imposing a fee on end users would provide the appropriate incentives in this context. Alternatively, the Commission sought comment on whether charging a fee to carriers would [**133] provide more appropriate incentives for number use. n283

n282 *See* Letter from John Hoffman, Chairman, North American Numbering Council, to Dorothy Attwood, Chief, Common Carrier Bureau, dated September 20, 2000.

n283 *See Second Report and Order, 16 FCC Rcd at 369, para. 152.*

116. Several commentaries believe that the current 180-day reservation period will be sufficient for most customers and that reservation fees are not appropriate at this time. n284 Focal Communications states that a new requirement for fees would fall most heavily on new entrants that are already having a difficult time obtaining capital. Thus, a reservation fee system could harm new entrants' ability to compete in the market. n285 Reservations fees also may promote the hoarding of numbers. NASUCA states that reservations fees may have the unintended effect of accelerating number depletion if carriers with greater financial resources buy up quantities of numbers for future use. n286 New York also believes that a fee will not protect against hoarding and that some entities may be willing to lock up numbers although they have no intention of putting the numbers in service. [**134] n287

n284 *See* Ad Hoc Comments at 23; SBC Comments at 11-12; Connecticut Department of Public Utility Control Comments at 3; Verizon Wireless Comments at 33; Focal Communications Comments at 5; Ohio PUC

Comments at 21. Although ALTS supports the use of reservation fees, it notes that the 180-day reservation period should be sufficient for most customers. *See* ALTS Comments at 12.

n285 Focal Communications Comments at 5-6.

n286 NASUCA Comments at 23.

n287 New York State Department of Public Service Comments at 5.

117. Several commenters, however, support the proposal for charging a reservation fee for numbers. n288 WinStar, for example, states that a number reservation fee would decrease the quantity of numbers held in reserve, while meeting the needs of users who have a legitimate reason to reserve numbers. n289 WinStar also states that there is no incentive for carriers to abuse extensions. n290 WorldCom also believes that reservation fees may deter needless or fraudulent reservations. n291

n288 *See* ALTS Comments at 12; BellSouth Comments at 20; Cox Comments at 10; Verizon Comments at 3-4; Winstar Comments at 6. Although Verizon has generally opposed charging fees for the use of reservation of telephone number, it also believes that some customers have legitimate needs to reserve numbers for more time that is permitted by the rules. Given the choice of no fees with 180-day reservation limits, or charging fees for longer reservation periods. Verizon would support the NANC proposal to allow carriers to maintain a fee for reservations. Verizon, however supports extending the reservation period to one year. Verizon Comments at 3; Winstar Comments at 6; WorldCom Comments at 11. [**135]

n289 *See* Winstar Comments at 6.

n290 *Id.*

n291 *See* WorldCom Comments at 11.

[*303] 118. We conclude that a reservation fee would be too administratively burdensome to generate any significant benefit, especially in light of the fact that there is, most likely, no benefit from a numbering optimization perspective. n292 We agree with commenters that do not believe charging fees will help conserve numbers. n293 Rather, such a fee may promote the hoarding of numbers by "well-heeled" carriers and would thus have the unintended effect of accelerating the depletion of numbers by carriers with greater financial resources. n294 Therefore, we find that a reservation fee may undermine our conservation efforts. Accordingly, we decline to establish a fee structure to enable carriers to extend the 180-day reservation period.

n292 For example, we would have to determine, among other things, whether carriers or end users would pay the fee: for what purposes the money collected would be used: what amount should be charged: whether and how to limit the extent of reservation, or whether they could be indefinite.

n293 *See, et al.* Connecticut Department of Public Utility Control Comments at 3; NASUCA Comments at 29; New Hampshire PUC Comments at 1-2; New York State Department of Public Service Comments at 5; State Coordination Group Comments at 5. [**136]

n294 *See supra* at para. 110.

3. Clarification of Numbers Used for Intermittent or Cyclical Purposes

119. Numbers used for intermittent purposes are numbers designated for use by a particular customer that may be "working" in the Public Switched Telephone Network (PSTN) periodically, but that remain designated for the customer's use even if they are not "working." These may include numbers contained in blocks assigned to Centrex or Private Branch Exchange (PBX) users, or to large corporations that require an inventory of spare numbers to accommodate internal usage on short notice. These customers typically use all or a portion of a block of numbers at any

given time. Numbers used for cyclical purposes are numbers designated for use that are typically "working" for regular intervals of time. Customers with numbers used for cyclical purposes typically wish to retain the same number even when the numbers are not "working." A customer's summer home telephone number that is in service for six months out of the year, or a college student's telephone number that is in service only for the school year, are examples of numbers used for cyclical purposes.

120. On our own motion, [**137] we now clarify that numbers used for intermittent or cyclical purposes should not be categorized as reserved numbers for NRUF reporting purposes. To the extent that these numbers are "working," they would be categorized as *assigned numbers*. n295 It is less clear how these numbers must be categorized when they are not "working." In reviewing the record in the proceeding, certain commenters appear to presume that intermittent and cyclical should be categorized as "reserved." The Association for Telecommunications Professionals in Higher Education (ACUTA), for example, believes that colleges and universities should not be subject to any limitation on reserving blocks of numbers due to the unique way in which they utilize numbers. n296 Specifically, ACUTA explains that colleges and universities need to hold blocks of numbers beyond the 180-day maximum period for reserving numbers in order to [*304] provide students with the same number throughout their stay at the college or university. n297 In addition, ACUTA explains that the 180-day reservation period fails to address the needs of higher education institutions to retain all numbers within NXX codes in order to achieve public safety n298 [**138] and educational objectives. n299 Thus, ACUTA believes that if colleges and universities are forced to return inactive numbers within an NXX code after 180 days, these important needs will be compromised. n300

n295 *First Report and Order, 15 FCC Rcd at 7585, para. 16.*

n296 ACUTA Comments at 4.

n297 *Id.* at 6.

n298 On many campuses, the association between numbers and dormitory rooms allows for calling locations to be identified in order to facilitate implementation of E911 systems. This speeds access to emergency services, including fire, police, and medical staff. *See* ACUTA Comments at 6-7.

n299 *Id.* at 6. According to ACUTA, colleges and universities use reserved numbers to: hold numbers for students or rooms while the student is absent, or rooms are empty during summer breaks or semesters abroad: retain abbreviated dialing patterns between staff, students, and faculty offices and rooms for safety administrative purposes: assign specific features and capabilities only to blocks of numbers: assist campus telecommunications professionals in administering billing of telecommunications services to specific user groups; and, preserve a sense of community and identity through the unique NXX code that becomes associated with a campus or university system. [**139]

n300 *Id.*

121. Our purpose in establishing reserved numbers and limiting the reservation period is to allow carriers the ability to set aside numbers for specific customers' use in the near term. We did not intend, however, to limit carriers' ability to maintain the same telephone number or block of numbers for customers that activate service to particular lines on an intermittent or cyclical basis. Accordingly, we clarify that numbers assigned to specific end user customers for intermittent or cyclical use should not be categorized as reserved numbers.

122. Although we believe that customers with numbers used for intermittent or cyclical purposes should not be subject to losing these numbers when they are turned off for short periods of time, we are concerned that some of these numbers that remain unused indefinitely could be used to provide service to other customers. We therefore clarify that numbers contained in blocks assigned for use in Centrex or PBX systems may be categorized as assigned numbers by reporting carriers, to the extent that fifty percent (50%) or more of such numbers are "working" at all times. n301 With this requirement, we seek to limit the amount of [**140] numbers that are set aside for use by a particular customer, but are not being used to provide service on a regular basis. Thus, in order to categorize such blocks of numbers as assigned numbers, carriers may have to decrease the amount numbers set aside for a particular customer. We also clarify that numbers "working" periodically for regular intervals of time, such as numbers assigned to summer homes or student

residences, may be categorized as assigned numbers, to the extent that they are "working" for a minimum of 90 days during each calendar year in which they are assigned to a particular customer. Any numbers used for intermittent or cyclical purposes that do not meet these requirements may not be categorized as assigned numbers, and must be made available for [*305] use by other customers. We believe these limitations on the definitions of *assigned numbers* strike an appropriate balance between carriers' legitimate need to provide numbers for intermittent or cyclical use to their customers, and our responsibility to ensure that scarce numbering resources do not lie fallow.

n301 For example, if 50 numbers out of a block of 100 are being used, all 100 numbers may be categorized as "assigned." [**141]

C. Clarification of Top 100 MSAs

123. The 1996 Act requires LECs to offer, "to the extent technically feasible, number portability in accordance with requirements prescribed by the FCC." n302 The Commission required wireline carriers in the largest 100 MSAs to offer LNP pursuant to a phased implementation schedule spread over five quarters, which ended on December 31, 1998. n303 Beginning January 1, 1999, telecommunications carriers outside of the largest 100 MSAs were permitted to file requests for number portability with LNP-capable carriers, which are required to provide LNP no later than six months after a request is received. n304 The Commission established a separate LNP implementation schedule for CMRS providers, which are scheduled to become LNP capable by November 24, 2002. n305 In addition, the Commission mandated that carriers required to be LNP capable also be capable of participating in pooling in the top 100 MSAs by that date. n306

n302 *47 U.S.C. § 252*(e).

n303 Telephone Number Portability, *First Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 7236, 7283, 7625-27, 7346-47 (1997)* modifying *LNP First Report and Order, 11 FCC Rcd at 8355, 9393-96, 8482-85)* (*LNP First Reconsideration Order*). In a series of orders, the Common Carrier Bureau granted a number of petitions for extension of the LNP deployment schedule due to the change of the NPAC in the Southeast, Western, and West Coast regions and certain technical problems. [**142]

n304 *Id.*

n305 CMRS carriers were originally required to have the capability of delivering calls from their networks to ported numbers anywhere in the country by December 31, 1998. *See LNP First Report and Order, 11 FCC Rcd at 8355, 8439-40.* In addition, CMRS carriers in the top 100 MSAs were required to offer LNP, including the ability to support roaming, throughout their networks by June 30, 1999. On February 9, 1999, the Commission granted a CTIA forbearance petition extending the deadline for CMRS providers to support service provider LNP until November 24, 2002. *CMRS LNP Forebearance Order, 14 FCC Rcd at 3092.*

n306 *Second Report and Order, 16 FCC Rcd at 329-30,* paras. 49-51.

124. Some states have advised that not all wireline carriers in the top 100 MSAs are LNP capable. n307 Apparently, some carriers have interpreted our rules to require LNP capability only when a request is received from a competing carrier, even in the top 100 MSAs. This issue was brought to light when state pooling trials were implemented and certain carriers had not acquired the necessary capability [**143] to participate in thousands-block number pooling. We therefore clarify, on our own motion, that the LNP and pooling requirements extend to all carriers in the largest 100 MSAs, regardless of whether they have received a specific request to provide LNP from another carrier. We also clarify that the "top 100 MSAs" include those MSAs listed in the *LNP First Report and Order*, Appendix D used to determine the scope of LNP [*306] deployment in 1996, as well as all areas included on any subsequent top 100 MSA list. n308

n307 *See* California Comments at 17.

n308 The top 100 MSAs list in the *LNP First Report and Order* is based on 1990 U.S. Census data updated with 1994 information.

125. *Covered Carriers.* As explained in the Commission's News Release announcing the adoption of rules on telephone number portability, the Commission intended to require all wireline carriers to become LNP capable in the largest 100 MSAs, and to make number portability available in areas outside of the largest 100 MSAs within six months of a request from another carrier. n309 The requirement applies to carriers operating in and entering into these markets. The limitation that carriers need to become [**144] LNP-capable only when they receive a request from a competing carrier only applies outside of the largest 100 MSAs. To clarify any uncertainty in our rules, we modify them herein. n310 To the extent that wireline carriers in the top 100 MSAs may have misinterpreted these rules as requiring LNP capability only when they receive a request from a competing carrier, we give non-compliant carriers six months from the effective date of this order to become LNP capable in the top 100 MSAs. Carriers that enter markets in the largest 100 MSAs are required to be LNP capable upon entry. We also retain the requirement that carriers outside of the top 100 MSAs become LNP capable within six months of receiving a request from a competing carrier.

n309 Commission Adopts Rules on Telephone Number Portability, *News Release*, Report No. DC 96-60 (June 27, 1996).

n310 *See* Appendix D for a list of the applicable MSAs.

126. *Scope of the Top 100 MSAs.* Upon initially determining the scope of required LNP deployment, the Commission used the 1990 U.S. Census data, updated with 1994 information, which was the most current at that time. n311 We note that, with the 2000 U.S. Census, the 100 [**145] largest MSAs have changed in several respects from those identified in the 1990 U.S. Census. For example, several MSAs that were on the 1990 list of the 100 largest MSAs are now combined in Consolidated Metropolitan Statistical Areas (CMSAs). In addition, several new areas and MSAs are included on the current list of the 100 largest MSAs. n312

n311 LNP First Report and Order, Appendix D.

n312 The 100 largest MSAs have changed in the following respects: the Bergen, NJ, Jersey City, NJ, Middlesex, NJ, Monmouth, NJ, Nassau, NY, Newark, NJ, and New Haven, CT MSAs are now part of the New York-Northern New Jersey-Long Island, NY-NJ-CT-PA CMSA; the Orange County, CA and Riverside, CA MSAs are now part of the Los Angeles-Riverside-Orange County, CA CMSA; the Gary, IN MSA is now part of the Chicago-Gary-Kenosha, IL-IN-WI CMSA; the Baltimore, MD MSA is now part of the Washington-Baltimore, DC-MD-VA-WV CMSA; the Oakland, CA, San Jose, CA, and Vallejo, CA MSAs are now part of the San Francisco-Oakland-San Jose, CA CMSA; the Wilmington. DE MSA is now part of the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD CMSA; the Ann Arbor, MI MSA is now part of the Detroit-Ann Arbor-Flint, MI CMSA; the Fort Worth TX MSA is now part of the Dalias-Fort Worth, TX (CMSA); the Fort Lauderdale, FL MSA is now part of the Miami-Fort Lauderdale, FL CMSA; the Tacoma, WA MSA is now part of the Seattle-Tacoma-Bremerton, WA CMSA; and the Akron, OH MSA is now part of the Cleveland, OH CMSA. The Census Bureau's Metropolitan Areas Ranked by Population: 2000 table is available at <http://www/census.gov/population/www/cen2000>.

The following are now part of the 100 largest MSAs; the San Juan-Caguas-Arecibo, PR CMSA. McAllen-Edinburg-Mission, TX MSA, Colorado Springs, CO MSA, Daytona Beach, FL MSA, Lakeland-Winter Haven, FL MSA, Johnson City-Kingsport-Bristol, TN-VA MSA, Lexington, KY MSA, Augusta-Aiken, GA-SC MSA, Melbourne-Titusville-Palm Bay, FL MSA, Lancaster, PA MSA, Chattanooga, TN-GA MSA, Des Moines, IA MSA, Kalamazoo-Battle Creek, MI MSA, Lansing-East Lansing, MI MSA, Modesto, CA MSA, Fort Myers-Cape Coral, FL MSA, Jackson, MS MSA, Boise City, ID MSA, Madison, WI MSA, Spokane, WA MSA, and the Pensacola, FL MSA. [**146]

[*307] 127. We believe that widespread LNP and pooling deployment will further our competition and numbering resource optimization goals. Rather than limit deployment to a list that is not reflective of the current and ever-changing population and competitive landscape, we conclude that new entrants on the top 100 MSA list should be included. We decline, however, to delete any areas that may subsequently fall off the list: we believe that those areas will, in most instances, continue to be heavily populated and competitive and, thus, should continue to be targeted for LNP and

pooling. We also find that it would be discriminatory to allow new entrants into markets in which all carriers are LNP capable to enter these markets as competitors without being subject to the same requirements. We therefore clarify that LNP is required in the top 100 MSAs identified in the 1990 U.S. Census reports and all subsequent updates: areas on the original list but no longer on the current list are still subject to LNP requirements. As new areas are added to the list of the top 100 MSAs, carriers will be given a six month period after release of the updated list to comply with LNP and pooling capability requirements. [**147]

D. Liability of Related Carriers and Withholding of Numbering Resources

128. In the *Second Report and Order*, the Commission tentatively concluded that carriers should, in certain instances, have numbering resources withheld when related carriers are subject to withholding for failure to comply with our mandatory reporting requirements. n313 The Commission sought comment on how to identify the relationships among reporting carriers, and what geographic limitations should be placed on those relationships in determining liability among related carriers. The Commission also stated its belief that parent companies should play an active role in number conservation efforts, even if the parent companies themselves are not reporting carriers. n314 Particularly, by monitoring and offering incentives from the top down, parent companies can contribute to the success of our number optimization goals. In addition, the Commission asked commenters to discuss alternative methods of providing incentives for parent companies to encourage compliance from all their related carriers and to ensure that our numbering resource optimization goals are not undermined by the complexities of corporate [**148] structures.

n313 *See Second Report and Order, 16 FCC Rcd at 369, para. 151.*

n314 The term "parent company," as used herein, refers to the highest related legal entity located within the state for which the reporting carrier is reporting data. *See also* 47 C.F.R. § 52.15(f)(3)(ii).

129. We decline at this time to hold related carriers accountable for reporting violations. In addition to the difficulty of determining which carriers should be deemed "related" for enforcement purposes, n315 we are not convinced that related carrier liability is necessary or [*308] that it would be an effective deterrent to carriers seeking to circumvent our numbering reporting requirements. We continue to believe that parent companies should play an active role in ensuring that their related companies comply with the reporting requirements. We also believe that states will continue to play an important role in helping us to achieve our numbering resource optimization goals, and we encourage states to use their ability to request "for cause" audits in furtherance of these goals. Rather than focusing our enforcement efforts on related carriers, however, we find that dealing [**149] directly with the violating carrier is the better approach.

n315 Some commenters attribute this difficulty to the current climate of mergers and divestments in the telecommunications industry. *See* Cingular Comments at 13; PCIA Comments at 23; Verizon Wireless Comments at 19; BellSouth Comments at 18. Verizon also argues that any determination of how carriers are "related" is problematic for wireless carriers because many wireless systems are owned by partnerships or joint ventures.

130. We nevertheless intend to use, as necessary, the full range of enforcement options available to us against carriers that fail to comply with the reporting requirements, including fines and forfeitures, especially for egregious and repeated violations. Fines and forfeitures, however, may be of limited value to motivate certain carriers to comply with reporting violations because some companies may consider them a minor additional cost of doing business. Relying on fines and forfeitures alone may also disproportionately affect smaller companies that do not have the resources of larger carriers. Withholding numbers is therefore a more equitable means of deterring reporting violations for carriers [**150] who refuse to observe number optimization requirements. We emphasize that we will take appropriate enforcement action upon discovering that a carrier is attempting to circumvent our reporting requirements, for example, by establishing a separate company for the sole purpose of receiving initial numbering resources.

131. When we determine by audit or are notified by the NANPA or a state commission that a reporting carrier is not in compliance with mandatory numbering reporting requirements, the reporting carrier will be notified in writing that it is subject to withholding of numbering resources. Some commenters raise concerns that carriers will not have sufficient opportunity to respond to or rebut findings that they should be subject to withholding of numbering resources before withholding occurs. n316 Reporting carriers that have failed to submit semi-annual NRUF data are given ample

opportunity to respond to notifications of apparent violations. For example, NANPA currently notifies carriers who have failed to provide necessary reports, and allows carriers the opportunity to respond or rectify the reporting violation, as necessary. n317 Similarly, the Commission will give reporting [**151] carriers an opportunity to respond to and rebut findings. If the carrier fails to respond or remedy a reporting violation within a specified or reasonable period of time, the reporting carrier will be subject to withholding of numbering resources. We delegate authority to the Common Carrier Bureau and the Enforcement Bureau to determine when numbering resources should be withheld from carriers.

n316 ALTS Comments at 10; WorldCom Comments at 10.

n317 *See First Report and Order, 15 FCC Rcd at 7609, para. 84.*

132. Accurate number utilization reporting and forecast data are essential for the NANPA, the Pooling Administrator, and the Commission to achieve our numbering resource optimization goals. We are persuaded by reports of inaccurate, incomplete, and missing reporting data n318 that additional incentive is needed to encourage carriers to comply with our [*309] reporting requirements, and we believe that the possibility of having numbering resources withheld will provide such incentive.

n318 *See* Michigan PSC Comments at 5.

E. State Commissions' Access to Data

133. In the *Second Report and Order*, the Commission clarified the scope of states [**152] access to carriers' utilization and forecast data submitted semi-annually to the NANPA. Specifically, the Commission stated that states shall have access to all such mandatorily reported data received by NANPA. n319 The Commission also noted that some states have asserted that they require full access to the database in which reported utilization and forecast data is stored, and tentatively concluded that states should have password-protected access to the database. The Commission further noted that NeuStar has proposed to provide the states with password-protected access to obtain forecast and utilization data from NANPA. The Commission sought comment on whether the type of access NeuStar proposes is necessary or sufficient, or whether the access already granted is sufficient to accommodate the states' request. The majority of commenters support the proposal. n320 and several state commissions commented that it was important for them to have vital utilization and forecasting information in making decisions regarding area code relief. n321 Several industry commenters oppose password-protected access on the grounds that carrier-specific data will not be sufficiently protected from [**153] public disclosure. n322

n319 *See Second Further Notice, 16 FCC Rcd at 369, para. 151.*

n320 Illinois Commerce Commission Comments at 11; Maine PUC Comments at 4-5; Ohio PUC Comments at 2-3; Pennsylvania PUC at 4-5; California PUC Comments at 9; NASUCA Comments at 18; State Coordination Group Comments at 5; WorldCom Comments at 10; SBC Comments at 10; Verizon Comments at 10.

n321 Illinois Commerce Commission Comments at 11; Maine PUC Comments at 4-5; Ohio PUC Comments at 2-3; Pennsylvania PUC Comments at 4-5.

n322 *See* Cingular Comments at 16; Winstar Comments at 5; Verizon Wireless Comments at 35.

134. By this Order we hold that state commissions should have password-protected access to the NANPA database for data pertaining to NPAs located within their state. Each state commission may designate a person or persons to whom NeuStar will provide password-protected access, and the state commission must maintain the confidentiality of carrier-specific data as set forth in the *First Report and Order*. n323

n323 *See First Report and Order, 15 FCC Rcd at 7608,* paras. 81-82; *see also Second Report and Order, 16 FCC Rcd at 357, para. 119.* [**154]

135. The advantages of providing states with password-protected access to forecast and utilization data include the ability to access data on a more timely basis, and access to the data in a format that allows manipulation of the data and the creation of customized reports. We conclude that such access will only enhance the ability of states to determine when and what area code relief is necessary. Further, we do not believe that allowing state commissions password-protected access to carrier-specific forecast and utilization data will pose any greater security risks than the current reporting system, in which NANPA distributes this data in semi annual reports. Moreover, we find that the value to state commissions of timely access to forecast and [*310] utilization data outweighs the confidentiality concerns expressed by the carriers required to submit this data to the NANPA.

136. Despite this finding, we nevertheless reiterate that the confidentiality protections for forecast and utilization data adopted in the *First Report and Order* apply to state commissions when accessing carrier-specific data, whether in the form of semiannual reports or through the use of password-protected access. [**155] Specifically, state commissions must have appropriate protections in place (which may include confidentiality agreements or designation of information as proprietary under state law) that would preclude disclosure to any entity other than the NANPA or the Commission. n324 Any state that cannot certify its ability to keep such data confidential shall not have access, password-protected or otherwise.

n324 *Id.* at 7574, paras. 81-82.

137. Additionally, we agree with commenters n325 stating that state commissions' access to reported utilization and forecast data should be limited to data concerning rate centers and NPAs within the requesting state, just as data in the form of semi-annual reports from the NANPA is so limited. Limiting access to individual states provides a further measure of protection for such data by ensuring that access will be granted only to state commission staff that uses this data for area code relief purposes.

n325 Cingular Comments at 16; ATLTS Comments at 11-12; Focal Communications Comments at 5.

138. We have consulted with NeuStar, the entity that serves as the NANPA, regarding the availability of and cost of providing password-protected access [**156] to state commissions. NeuStar has indicated that it can provide password-protected access to its current database for mandatory reported data. n326 However, NeuStar has not provided any information on whether such access will exceed the cost of its current NANPA contract. The Common Carrier Bureau will continue to work with NeuStar to develop the manner in which such access can be provided as quickly as possible.

n326 See *Second Report and Order, 16 FCC Rcd at 369, para. 151. See also* NeuStar Inc. Petition for Compensation Adjustment. Request for Approval of Implementation Scehdule and Emergency request of Interim Relief. CC Docket No. 99-200 (June 30, 2001)

VII. PROCEDURAL MATTERS

A. *Ex Parte* Presentations

139. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. n327 Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a list of the subjects discussed. More than a one or [*311] two sentence description of the views and arguments presented is [**157] generally required. n328

n327 *See* Amendment of 47 C.F.R. § 1.1200 et seq. Concerning Ex Parte Presentations in Commission Proceedings. *Report and Order, 12 FCC Rcd 7348, 7356-57 (1997)* (citing 47 C.F.R. § 1.1204(b)(1)).

n328 *See* 47-C.F.R. § 1.1206(b)(2).

B. Final Regulatory Flexibility Analysis

140. *See* Appendix B for the Final Regulatory Flexibility Analysis.

C. Final Paperwork Reduction Analysis

141. This *Third Report and Order* contains some new and/or modified information collections, which will be submitted to OMB for approval, as prescribed by the Paperwork Reduction Act.

D. Ordering Clauses

142. Accordingly, IT IS ORDERED that pursuant to Sections 1, 3, 4, 201-205, 251 of the Communications Act of 1934, as amended, *47 U.S.C. § § 151,* 153, 154, 201-205, and 251, this THIRD REPORT AND ORDER is hereby ADOPTED and Part 52 of the Commission's rules ARE AMENDED AND ADOPTED as set forth in the attached Appendix A.

143. IT IS FURTHER ORDERED that the policies, rules and requirements adopted herein are adopted and SHALL BE EFFECTIVE 30 days after publications in the Federal Register. [**158]

144. IT IS FURTHER ORDERED that incumbent local exchange carriers seeking to recover carrier-specific costs directly related to national thousands-block number pooling as described herein MAY FILE the necessary tariffs to take effect no earlier than April 2, 2002.

145. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau. Reference Information Center, SHALL SEND a copy of this *Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Magalie Roman Salas

Secretary

CONCURBY: MARTIN

CONCUR:

SEPARATE STATEMENT OF COMMISSIONER KEVIN J. MARTIN

Re: Numbering Resource Optimization, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200

I join in approving this Order because it is an important step in providing the States the additional flexibility they require to address numbering issues. As I have said before, State commissions often bear the brunt of consumer complaints. Particularly, with regard to numbering issues, it is the State commissions that [**159] hear all of the complaints. Therefore, I appreciate this Commission's actions in granting States additional numbering flexibility.

This Order grants the requests of several States to lift the prohibition on technology specific and service specific overlays. Allowing States such flexibility in how to address numbering issues is crucial, as the States are on the front lines of this battle. We must remember that it is the State Commissions, not this Commission, that feel the outcry from consumers when number conservation measures are adopted. I am thus hopeful that this Order will provide the States significant additional tools.

This item hardly ends our task, however. I expect this Commission to continue to work with the States to facilitate their number conservation plans in the future, providing expeditious decisions on applications for technology specific and service specific overlays and granting States additional flexibility as they need it.

APPENDIX:

Appendix A

Final Rules

PART 52--NUMBERING

Subpart B--Administration

1. The authority citation for Part 52 continues to read as follows:

AUTHORITY: Sections 1, 2, 4, 5, 48 Stat. 1066, as amended; *47 U.S.C. § 151,* [**160] 152, 154, 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201-05, 207-09, 218, 225-7, 251-2, 271 and 332, 48 Stat. 1070, as amended, 1077; *47 U.S.C. 153,* 154, 201-205, 207-09, 218, 225-7, 251-2, 271 and 332 unless otherwise noted.

2. Section 52.15 is revised to read as follows:

§ 52.15 Central office code administration.

***

(g) Applications for Numbering Resources.

***

(3) *Growth Numbering resources.*

***

(iv) (deleted)

(4) *Non-Compliance.* The NANPA shall withhold numbering resources from any U.S. carrier that fails to comply with the reporting and numbering resource application requirements established in this part. The NANPA shall not issue numbering resources to a carrier without an Operating Company Number (OCN). The NANPA must notify the carrier in writing of its decision to withhold numbering resources within ten (10) days of receiving a request for numbering resources. The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. The state commission may affirm, or may overturn, the NANPA's decision to withhold numbering resources from the carrier based on its determination [**161] that the carrier has complied with the reporting and numbering resource application requirements herein. The state commission also may overturn the NANPA's decision to withhold numbering resources from the carrier based on its determination that the carrier has demonstrated a verifiable need for numbering resources and has exhausted all other available remedies.

(5) *State Access to Applications.* State regulatory commissions shall have access to service provider's applications for numbering resources. The state commissions should request copies of such applications from the service providers operating within their states, and service providers must comply with state commission requests for copies of numbering resource applications. Carriers that fail to comply with a state commission request for numbering resource application materials shall be denied numbering resources.

***

(k) *Numbering Audits.*

(1) All telecommunications service providers shall be subject to "for cause" and random audits to verify compliance with Commission regulations and applicable industry guidelines relating to numbering administration.

(2) The Enforcement Bureau will oversee the conduct [**162] and scope of all numbering audits conducted under the Commission's jurisdiction, and determine the audit procedures necessary to perform the audit. Numbering audits performed by independent

auditors pursuant to this section shall be conducted in accordance with generally accepted auditing standards and the American Institute of Certified Public Accountants' standards for compliance attestation engagements, as supplemented by the guidance and direction of the Chief of the Enforcement Bureau.

(3) Requests for "for cause" audits shall be forwarded to the Chief of the Enforcement Bureau, with a copy to the Chief of the Common Carrier Bureau. Requests must state the reason for which a "for cause" audit is being requested and include documentation of the alleged anomaly, inconsistency, or violation of the Commission rules or orders or applicable industry guidelines. The Chief of the Enforcement Bureau will provide carriers up to 30 days to provide a written response to a request for a "for cause" audit.

3. Section 52.19 is revised to read as follows:

***

(c)***

(3) An all services area code overlay, which occurs when a new area code is introduced to serve the same geographic [**163] area as one or more existing area code(s), subject to the following conditions:

(i) No all services area code overlay may be implemented unless all numbering resources in the new overlay area code are assigned to those entities requesting assignment on a first-come, first-serve basis, regardless of the identity of, technology used by, or type of service provided by that entity, except to the extent that a technology- or service-specific overlay is authorized by the Commission. No group of telecommunications carriers shall be excluded from assignment of numbering resources in the existing area code, or be assigned such resources only from the all services overlay area code, based solely on that group's provision of a specific type of telecommunications service or use of a particular technology; and

(ii) ***

(4) A technology-specific or service-specific overlay, which occurs when a new area code is introduced to serve the same geographic area as one or more existing area code(s) and numbering resources in the new area code overlay are assigned to a specific technology(ies) or service(s). State commissions may not implement a technology-specific or service-specific overlay without [**164] express authority from the Commission.

4. Section 52.21 is revised to read as follows:

***

(r) The term *100 largest Metropolitan Statistical Areas (MSAs)* refers to the MSAs set forth in the appendix to this part and any subsequent MSAs identified by U.S. Census Bureau data to be in the largest 100 MSAs.

Appendix B

FINAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by the Regulatory Flexibility Act, as amended, (RFA), n1 an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking (Second Further Notice)*. n2 The Commission sought written public comment on the proposals in the *Second Further Notice*, including comment on the IRFA. No

comments received addressed the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA. n3

n1 *See 5 U.S.C. § 603.* The RFA, *see 5 U.S.C. § 601 et. seq.*, has been amended by the Contract With America Advancement Act of 1996. Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). [**165]

n2 Numbering Resource Optimization, Second Report and Order, Order on Reconsideration in *CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking, 16 FCC Rcd 306 (2000)* (Second Further Notice).

n3 *See 5 U.S.C. § 604.*

A. ***Need for, and Objectives of, the Third Report and Order***

2. In the *Second Further Notice*, we sought public comment on (a) the relative advantages of service-specific and technology-specific overlays as opposed to all-services overlays, and the conditions under which service-specific and technology-specific overlays, if adopted, should be implemented in order to promote competitive equity, maximize efficient use of numbering resources, and minimize customer inconvenience; (b) whether carriers should be held accountable when related carriers fail to comply with reporting requirements; (c) whether state commissions should be granted direct, password-protected access to the mandatory reporting data received by the North American Numbering Plan Administrator (NANPA); (d) whether we should allow extensions (for a fee or otherwise) on the 180-day reservation [**166] period for numbers; (e) what enforcement mechanisms should be applied when a carrier either fails to cooperate with an audit, or fails to resolve identified areas of noncompliance; (f) whether state commissions should be allowed to conduct audits; (g) the costs associated with thousands-block number pooling; (h) whether the Commission should require carriers to acquire Local Number Portability (LNP) capabilities for the purpose of participating in thousands-block number pooling; and (i) whether a "safety valve" should be established for carriers that need additional numbering resources, but fail to meet the utilization threshold in a given rate center.

3. In this *Third Report and Order and Second Order on Reconsideration (Third Report and Order)*, we continue efforts to utilize efficiently the numbering resources in the North American Numbering Plan (NANP). Our goal with this *Third Report and Order* is to build upon previous success working with the state commissions and the telecommunications industry to ensure that the limited numbering resources of the NANP do not exhaust prematurely, and to ensure that all carriers have the numbering resources they need to compete in the [**167] telecommunications marketplace. In particular, we address issues raised in the *Second Further Notice* and several petitions for reconsideration and/or clarification of the *First* or *Second Report and Order*. In addition, we also clarify, on our own motion, certain aspects of our numbering resources optimization rules and local number portability requirements.

B. ***Summary of Significant Issues Raised by Public Comments in Response to the IRFA***

4. In a recent letter, the Small Business Administration (SBA) contends that in the Final Regulatory Flexibility Analysis of the *Second Report and Order (Second Report and Order FRFA)* the Commission failed to ". . . include a description of telecommunications service providers that are directly affected by the audit provisions. . ." and believes that the ". . .oversight may be due to the inconsistency in the text of the Order itself. Under the Commission's numbering rules, carriers and service providers are two separate classes." n4 The SBA then notes that the terms "carrier" and "service provider" were used interchangeably within the audit provisions of the *Second Report and Order.*

n4 Letter to Susan Walthall, SBA, to Michael K. Powell, Chairman, FCC, dated March 30, 2001. (*SBA Letter*). [**168]

5. Although the terms "carrier" and "service provider" were used interchangeably within the audit provisions, the rule on auditing procedures in section 52.15(k) of the Commission's rules (in Appendix A of the *Second Report and Order*) clearly applies to telecommunications service providers. n5 As discussed in section 52.5(i) of the Commission's numbering rules, a service provider is an ". . .entity that receives numbering resources from the NANPA . . ." n6 Thus,

given that the rule is clear, we conclude that an adequate description of telecommunications service providers existed in this *Second Report and Order FRFA* and that no clarifications are needed in this FRFA.

n5 *See* 47 C.F.R. § 52.15(k).

n6 47 C.F.R. § 52.5(i).

6. In the *SBA Letter*, the SBA argues that, in the *Second Report and Order FRFA*, the Commission fails to ". . . adequately consider alternatives to the audit program that would minimize the impact on small businesses." n7 In the FRFA, the Commission is only required to discuss those significant alternatives that would affect the impact on small businesses. Thus, the Commission is not required to create significant alternatives for every [**169] proposal in a rulemaking order. n8 In crafting the final rule for audits, we considered no other significant alternatives to the rule that would influence the impact on small businesses. Therefore, no significant alternatives were available to be discussed in the *Second Report and Order FRFA*. We also note that, of the small businesses that commented on our audit proposal, small businesses were in favor of audits. n9

n7 SBA Letter at 5.

n8 We addressed significant alternatives where applicable in the *Second Report and Order FRFA*. For example, we discussed a significant alternative that would prohibit state commissions from implementing geographic splits. Small businesses that incur the costs of geographic splits may have benefited from this proposal, but we found that states should continue to have the flexibility in implementing area code relief. *See Second Report and Order, 16 FCC Rcd at 397, para. 28.*

n9 *See id. at 390, 397,* paras. 7, 30, Appendix B.

7. Commenters responded to several issues addressed in the *Second Further Notice* that concern small entities. Their opinions are summarized below. [**170] In addition, the Commission has considered any potential significant economic impact of the rules on small entities.

8. *Thousands-Block Number Pooling for Non-LNP Capable Carriers*. Commenters generally agree that the costs to small and rural carriers to participate in thousands-block pooling would outweigh any benefits derived from the pooling requirements. n10 The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) fears that the costs may be so prohibitive as to delay the implementation of advanced services to rural subscribers. n11 We agree with commenters that there is insufficient evidence in the record to conclude that requiring non-LNP capable carriers to participate in pooling would result in significant number resource savings. Data from the Local Exchange Routing Guide (LERG) shows that in the approximately 2,012 rate centers in the 180 Metropolitan Statistical Areas (MSAs) beyond the largest 100, approximately 1,320 are rate centers where there are no competing service providers and approximately 300 are rate centers where there is only 1 competing service provider. Because these carriers hold relatively few numbering resources, [**171] we agree that requiring them to participate in pooling would not result in significant number optimization benefits.

n10 NTCA Comments at 2-3; OPASTCO Comments at 7.

n11 OPASTCO Comments at 7.

9. *Independent State Commissions' Authority to Conduct Audits*. One commenter expressed concern that allowing states individual authority to conduct audits may expose carriers to two different standards. n12 It predicts that this result would impose costs and burdens on small carriers that outweigh the benefits of the additional audits. n13 We declined to give states the independent authority to conduct audits, concluding that most of the audits that states would be given authority to conduct would serve the same purpose as the Commission audits, thus posing the potential burden of overlapping audits that would outweigh the benefits of the additional audits. It is our expectation, however, that the Commission audit staff will cooperate with state commissions, including coordinating compliance and enforcement activities and sharing information gathered during the course of the audits. In addition, as we noted, this order does not modify a state commission's authority to conduct audits [**172] under state law.

n12 *Id.* at 4.

n13 *Id.*

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

10. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. n14 The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." n15 The term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities. n16 Under the Small Business Act, a "small business concern" is one which; (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. n17

n14 *5 U.S.C. § 604*(a)(3).

n15 *5 U.S.C. § 601*(6).

n16 *5 U.S.C. § 601*(3) (incorporating by reference the definition of "small business concern" in *15 U.S.C. § 632).* Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register." *5 U.S.C. § 601*(3). [**173]

n17 *15 U.S.C. § 632.*

11. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide appears to be data the Commission publishes annually in its *Telecommunications Provider Locator* report, derived from filings made in connection with the Telecommunications Relay Service (TRS). n18 According to data in the most recent report, there are 5,679 interstate service providers. n19 These providers include, *inter alia*, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone service, providers of telephone exchange service, and resellers.

n18 FCC, Common Carrier Bureau, Industry Analysis Division, *Telecommunications Provider Locator*, Tables 1-2 (November 2001) (*Provider Locator). See also* 47 C.F.R. § 64,601 *et seq.*

n19 *Provider Locator* at Table 1.

12. We have included small incumbent local exchange carriers (LECs) n20 in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter* [**174] *alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." n21 The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. n22 We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

n20 *See 47 U.S.C 251*(h) (defining "incumbent local exchange carrier").

n21 *15 U.S.C. § 632.*

n22 Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA

incorporates into its own definition of "small business." *See 15 U.S.C. § 632*(a) (Small Business Act); *5 U.S.C. § 601*(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 C.F.R. § 121,102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. *See, e.g., Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket, 96-98, First Report and Order, 11 FCC Rcd 15499, 16144-45 (1996), 61 FR 45476* (Aug. 29, 1996). [**175]

13. *Total Number of Telephone Companies Affected.* The Census Bureau reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. n23 This number contains a variety of different categories of carriers, including LECs, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated." n24 It seems reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by these rules.

n23 U.S. Department of Commerce, Bureau of the Census, 1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size, at Firm Size 1-123 (1995) (1992 Census).

n24 *See generally 15 U.S.C. § 632*(a)(1).

14. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies [**176] other than radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. n25 According to the SBA's definition, a small business telephone company other than a radiotelephone (wireless) company is one employing no more than 1,500 persons. n26 All but 26 of the 2,321 non-radiotelephone (wireless) companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Even if all 26 of the remaining companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone (wireless) companies that might qualify as small entities or small ILECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Therefore, we estimate that fewer than 2,295 small telephone communications companies other than radiotelephone (wireless) companies are small entities or small incumbent LECs that may be affected by these rules.

n25 *1992 Census* at Firm Size 1-123. [**177]

n26 13 C.F.R. § 121,201. North American Industry Classification System (NAICS) codes 513310, 513330, and 513340.

15. *Local Exchange Carriers, Competitive Access Providers, Interexchange Carriers, Operator Service Providers, Payphone Providers, and Resellers.* Neither the Commission nor the SBA has developed a definition for small LECs, competitive access providers (CAPS), interexchange carriers (IXCs), operator service providers (OSPs), payphone providers, or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. n27 The most reliable source of information that we know regarding the number of these carriers nationwide appears to be the data that we collect annually in connection with the TRS. n28 According to our most recent data, there are 1,329 LECs, 532 CAPs, 229 IXCs, 22 OSPs, 936 payphone providers, and 710 resellers. n29 Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would [**178] qualify as small business concerns under the SBA's definition. Therefore, we estimate that there are fewer than 1,329 small entity LECs or small incumbent LECs, 532 CAPs, 229 IXCs, 22 OSPs, 936 payphone providers, and 710 resellers that may be affected by these rules.

n27 13 C.F.R. § 121.201, NAICS codes 513310, 513330, and 513340.

n28 *See* 47 C.F.R. § 64,601 *et seq.; Provider Locator* at Table 1.

n29 *Provider Locator* at Table 1. The total for resellers includes both toll resellers and local resellers.

16. *Wireless Telephony and Paging and Messaging.* Wireless telephony includes cellular, personal communications services (PCS) or specialized mobile radio (SMR) service providers. Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees, or to providers of paging and messaging services. The closest applicable SBA definition is a telephone communications company other than radiotelephone (wireless) companies. n30 According to the most recent *Provider Locator* data, 858 carriers reported that they were engaged in the provision of wireless telephony and 576 companies reported that they were engaged in the [**179] provision of paging and messaging service. n31 We do not have data specifying the number of these carriers that are not independently owned or operated, and thus are unable at this time to estimate with greater precision the number that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 858 small carriers providing wireless telephony services and fewer than 576 small companies providing paging and messaging services that may be affected by these rules.

n30 13 C.F.R. § 121,201, NAICS codes 513321 and 513322.

n31 *Provider Locator* at Table 1.

D. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

17. The numbering resource optimization requirements discussed herein should not require additional reporting, recordkeeping or compliance requirements for service providers. In this *Report and Order*, we are not mandating new recordkeeping and compliance requirements. Rather, in most instances, we are affirming or clarifying these requirements.

E. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

18. [**180] The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. n32

n32 *5 U.S.C. § 603*(c).

19. *Thousands-Block Number Pooling for Non-LNP Capable Carriers.* In this *Third Report and Order*, we decline to extend pooling requirements to paging carriers and non-LNP capable carriers outside of the largest 100 MSAs that have not received a request to deploy LNP from a competing carrier. We believe the costs associated with the alternative of requiring all carriers, including small entities, to participate in pooling would greatly outweigh any number optimization benefits. In addition, these costs [**181] imposed on smaller and rural carriers may delay efforts in bringing advanced services to rural subscribers. Thus we reaffirm our current rules that certain carriers, *e.g.*, paging carriers and carriers outside of the largest 100 MSAs who have not received a request to deploy LNP from a competing carrier, are exempted from pooling requirements.

20. *Service-Specific and Technology-Specific Area Code Overlays.* In this order, we lift the prohibition on technology-specific overlays (SOs) and will consider proposals submitted by state commissions to implement SOs on a case-by-case basis. Such an approach allows state commissions to consider the surrounding local circumstances, including the needs of small, local businesses, in deciding whether or how to provide area code relief. In the alternative, we examined a requirement mandating that state commissions impose all-services area code overlays as the primary method for area code relief. However, the Commission believes that states should have the flexibility to determine the best form of area code relief. In addition, we considered a 50% utilization threshold as an alternative to a higher threshold, which would have been less burdensome [**182] to service providers, including small service providers. We determined, however, that a 60% utilization threshold would more successfully encourage service providers to use

numbers from their current inventories and would still be a reasonable threshold level for service providers to satisfy before requesting additional numbering resources.

21. ***Report to Congress:*** The Commission will send a copy of this *Third Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. n33 In addition, the Commission will send a copy of this *Third Report and Order*, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of this *Third Report and Order* and FRFA (or summaries thereof) will also be published in the Federal Register. n34

n33 *See 5 U.S.C. § 801*(a)(1)(A).

n34 *See 5 U.S.C. § 604*(b).

Appendix C

List of Parties

Numbering Resource Optimization Third Report and Order and Second Order on Reconsideration

A. Parties Filing Comments in Response to Second Report and Order

1. Association for Telecommunications [**183] Professionals in Higher Education (ACUTA)
2. Ad Hoc Telecommunications Users Committee (Ad Hoc)
3. Allegiance Telecom
4. Association for Local Telecommunications Services (ALTS)
5. Association of Communications Enterprises
6. AT&T
7. BellSouth
8. California PUC
9. Cingular Wireless (Cingular)
10. Connecticut Department of Public Utility Control
11. Cox Communications, Inc. (Cox)
12. Cellular Telecommunications Industry Association (CTIA)
13. Florida PSC
14. Focal Communications Corporation (Focal Communications)
15. Global NAPS, Inc.
16. Illinois Commerce Commission
17. Indiana Office of Utility Consumer Counselor
18. Iowa Utilities Board
19. Level 3 Communications, LLC (Level 3)
20. Maine PUC
21. Maryland PSC
22. Metrocall
23. Michigan PSC
24. National Association of State Utility Consumer Advocates (NASUCA)
25. National Exchange Carrier Association, Inc. (NECA)
26. NENA
27. New Hampshire PUC
28. New York State Department of Public Service
29. National Telephone Cooperative Association (NTCA)
30. Office of the Consumer Advocate
31. Ohio PUC
32. Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)
33. Personal Communications Industry Association [**184] PCIA
34. Pennsylvania PUC
35. Qwest
36. Rural Cellular Association
37. State Coordination Group Comments

38. SBC Communications
39. Texas PUC
40. Time Warner Telecom
41. United States Telephone Association (USTA)
42. Verizon Communications (Verizon)
43. Verizon Wireless
44. VoiceStream Wireless (VoiceStream)
45. WinStar Communications (WinStar)
46. WorldCom, Inc. (WorldCom)

B. Parties Filing Reply Comments in Response to Second Report and Order

1. Ad Hoc
2. Allegiance Telecom, Inc.
3. ASCENT
4. AT&T
5. BellSouth
6. California PUC
7. CTIA
8. Cingular
9. Iowa Utilities Board
10. Global NAPS, Inc.
11. Metrocall
12. Michigan PSC
13. Minnesota PUC
14. NECA
15. National Emergency Number Association (NENA)
16. NASUCA
17. PCIA
18. Qwest
19. SBC
20. Sprint
21. Tennessee Regulatory Authority
22. USTA
23. Verizon Wireless
24. VoiceStream
25. WorldCom
26. Z-Tel

C. Parties Filing Comments in Response to First Report and Order

1. AT&T
2. CTIA
3. General Services Administration
4. Joint Consumer Comments
5. NECA
6. NTCA
7. SBC
8. Sprint
9. USTA
10. US West
11. Verizon Wireless
12. WorldCom

D. Parties Filing Reply Comments in Response to First Report and Order

[**185] 1. AT&T
2. Bell Atlantic
3. California PUC
4. Maine PUC
5. VoiceStream

E. Parties Filing Petitions for Reconsideration and/or Clarification *

1. AT&T Wireless *
2. BellSouth
3. CTIA
4. Cingular *
5. Qwest
6. SBC
7. Sprint
8. USTA
9. Verizon
10. Verizon Wireless
11. WorldCom

F. Parties Filing Oppositions to and Support for Petitions

1. KMC Telecom, Inc. (KMC)
2. Maine PUC
3. PCIA

G. Parties Filing Replies to and Comments on Opposition to Petitions

1. SBC *
2. USTA

* indicates that the petition was not addressed in this proceeding

Appendix D

List of the Top 100 Metropolitan Statistical Areas (MSAs)

A. 100 Largest MSAs and Their Populations: Year 2000 Census

1.	New York--Northern New Jersey--Long Island, NY--NJ--CT--PA CMSA	21,199,865
2.	Los Angeles--Riverside--Orange County, CA CMSA	16,373,645
3.	Chicago--Gary--Kenosha, IL--IN--WI CMSA	9,157,540
4.	Washington--Baltimore, DC--MD--VA--WV CMSA	7,608,070
5.	San Francisco--Oakland--San Jose, CA CMSA	7,039,362
6.	Philadelphia--Wilmington--Atlantic City, PA--NJ--DE--MD CMSA	6,188,463
7.	Boston--Worcester--Lawrence, MA--NH--ME--CT CMSA	5,819,100
8.	Detroit--Ann Arbor--Flint, MI CMSA	5,456,428
9.	Dallas--Fort Worth, TX CMSA	5,221,801
10.	Houston--Galveston--Brazoria, TX CMSA	4,669,571
11.	Atlanta, GA MSA	4,112,198
12.	Miami--Fort Lauderdale, FL CMSA	3,876,380
13.	Seattle--Tacoma--Bremerton, WA CMSA	3,554,760
14.	Phoenix--Mesa, AZ MSA	3,251,876
15.	Minneapolis--St. Paul, MN--WI MSA	2,968,806

16.	Cleveland--Akron, OH CMSA	2,945,831
17.	San Diego, CA MSA	2,813,833
18.	St. Louis, MO--IL MSA	2,603,607
19.	Denver--Boulder--Greeley, CO CMSA	2,581,506
20.	San Juan--Caguas--Arecibo, PR CMSA	2,450,292
21.	Tampa--St. Petersburg--Clearwater, FL MSA	2,395,997
22.	Pittsburgh, PA MSA	2,358,695
23.	Portland--Salem, OR--WA CMSA	2,265,223
24.	Cincinnati--Hamilton, OH--KY--IN CMSA	1,979,202
25.	Sacramento--Yolo, CA CMSA	1,796,857
26.	Kansas City, MO--KS MSA	1,776,062
27.	Milwaukee--Racine, WI CMSA	1,689,572
28.	Orlando, FL MSA	1,644,561
29.	Indianapolis, IN MSA	1,607,486
30.	San Antonio, TX MSA	1,592,383
31.	Norfolk--Virginia Beach--Newport News, VA--NC MSA	1,569,541
32.	Las Vegas, NV--AZ MSA	1,563,282
33.	Columbus, OH MSA	1,540,157
34.	Charlotte--Gastonia--Rock Hill, NC--SC MSA	1,499,293
35.	New Orleans, LA MSA	1,337,726
36.	Salt Lake City--Ogden, UT MSA	1,333,914
37.	Greensboro--Winston-Salem--High Point, NC MSA	1,251,509
38.	Austin--San Marcos, TX MSA	1,249,763
39.	Nashville, TN MSA	1,231,311
40.	Providence--Fall River--Warwick, RI--MA MSA	1,188,613
41.	Raleigh--Durham--Chapel Hill, NC MSA	1,187,941
42.	Hartford, CT MSA	1,183,110
43.	Buffalo--Niagara Falls, NY MSA	1,170,111
44.	Memphis, TN--AR--MS MSA	1,135,614
45.	West Palm Beach--Boca Raton, FL MSA	1,131,184
46.	Jacksonville, FL MSA	1,100,491
47.	Rochester, NY MSA	1,098,201
48.	Grand Rapids--Muskegon--Holland, MI MSA	1,088,514
49.	Oklahoma City, OK MSA	1,083,346
50.	Louisville, KY--IN MSA	1,025,598
51.	Richmond--Petersburg, VA MSA	996,512
52.	Greenville--Spartanburg--Anderson, SC MSA	962,441
53.	Dayton--Springfield, OH MSA	950,558
54.	Fresno, CA MSA	922,516
55.	Birmingham, AL MSA	921,106
56.	Honolulu, HI MSA	876,156
57.	Albany--Schenectady--Troy, NY MSA	875,583
58.	Tucson, AZ MSA	843,746
59.	Tulsa, OK MSA	803,235
60.	Syracuse, NY MSA	732,117
61.	Omaha, NE--IA MSA	716,998
62.	Albuquerque, NM MSA	712,738
63.	Knoxville, TN MSA	687,249
64.	El Paso, TX MSA	679,622
65.	Bakersfield, CA MSA	661,645
66.	Allentown--Bethlehem--Easton, PA MSA	637,958
67.	Harrisburg--Lebanon--Carlisle, PA MSA	629,401
68.	Scranton--Wilkes-Barre--Hazleton, PA MSA	624,776

69.	Toledo, OH MSA	618,203
70.	Baton Rouge, LA MSA	602,894
71.	Youngstown--Warren, OH MSA	594,746
72.	Springfield, MA MSA	591,932
73.	Sarasota--Bradenton, FL MSA	589,959
74.	Little Rock--North Little Rock, AR MSA	583,845
75.	McAllen--Edinburg--Mission, TX MSA	569,463
76.	Stockton--Lodi, CA MSA	563,598
77.	Charleston--North Charleston, SC MSA	549,033
78.	Wichita, KS MSA	545,220
79.	Mobile, AL MSA	540,258
80.	Columbia, SC MSA	536,691
81.	Colorado Springs, CO MSA	516,929
82.	Fort Wayne, IN MSA	502,141
83.	Daytona Beach, FL MSA	493,175
84.	Lakeland--Winter Haven, FL MSA	483,924
85.	Johnson City--Kingsport--Bristol, TN--VA MSA	480,091
86.	Lexington, KY MSA	479,198
87.	Augusta--Aiken, GA--SC MSA	477,441
88.	Melbourne--Titusville--Palm Bay, FL MSA	476,230
89.	Lancaster, PA MSA	470,658
90.	Chattanooga, TN--GA MSA	465,161
91.	Des Moines, IA MSA	456,022
92.	Kalamazoo--Battle Creek, MI MSA	452,851
93.	Lansing--East Lansing, MI MSA	447,728
94.	Modesto, CA MSA	446,997
95.	Fort Myers--Cape Coral, FL MSA	440,888
96.	Jackson, MS MSA	440,801
97.	Boise City, ID MSA	432,345
98.	Madison, WI MSA	426,526
99.	Spokane, WA MSA	417,939
100.	Pensacola, FL MSA	412,153

[**186]

B. 100 Largest Metropolitan Statistical Areas (MSAs) and Their Populations (from the LNP First Report and Order FCC 96-286)

1.	Los Angeles, CA	9,150,000
2.	New York, NY	4,474,000
3.	Detroit, MI	4,307,000
4.	Houston, TX	3,653,000
5.	Atlanta, GA	3,331,000
6.	Boston, MA *	3,211,000
7.	Riverside, CA	2,907,000
8.	Dallas, TX	2,898,000
9.	Minneapolis, MN	2,688,000
10.	Nassau, NY	2,651,000
11.	San Diego, CA	2,621,000
12.	Orange Co., CA	2,543,000
13.	St. Louis, MO	2,536,000
14.	Phoenix, AZ	2,473,000
15.	Baltimore, MD	2,458,000
16.	Pittsburgh, PA	2,402,000
17.	Akron, OH	2,222,000
18.	Oakland, CA	2,182,000

19.	Seattle, WA	2,180,000
20.	Tampa, FL	2,157,000
21.	Miami, FL	2,025,000
22.	Newark, NJ	1,934,000
23.	Denver, CO	1,796,000
24.	Portland, OR	1,676,000
25.	Kansas City, KS	1,647,000
26.	San Francisco, CA	1,646,000
27.	Cincinnati, OH	1,581,000
28.	San Jose, CA	1,557,000
29.	Norfolk, VA	1,529,000
30.	Fort Worth, TX	1,464,000
31.	Indianapolis, IN	1,462,000
32.	Milwaukee, WI	1,456,000
33.	Sacramento, CA	1,441,000
34.	San Antonio, TX	1,437,000
35.	Columbus, OH	1,423,000
36.	Fort Lauderdale, FL	1,383,000
37.	Orlando, FL	1,361,000
38.	New Orleans, LA	1,309,000
39.	Bergen, NJ	1,304,000
40.	Charlotte, NC	1,260,000
41.	Buffalo, NY	1,189,000
42.	Salt Lake City, UT	1,178,000
43.	Hartford, CT *	1,156,000
44.	Providence, RI *	1,131,000
45.	Greensboro, NC	1,107,000
46.	Rochester, NY	1,090,000
47.	Las Vegas, NV	1,076,000
48.	Nashville, TN	1,070,000
49.	Middlesex, NJ	1,069,000
50.	Memphis, TN	1,056,000
51.	Monmouth, NJ	1,035,000
52.	Oklahoma City, OK	1,007,000
53.	Grand Rapids, MI	985,000
54.	Louisville, KY	981,000
55.	Jacksonville, FL	972,000
56.	Raleigh, NC	965,000
57.	Austin, TX	964,000
58.	Dayton, OH	956,000
59.	West Palm Beach, FL	955,000
60.	Richmond, VA	917,000
61.	Albany, NY	875,000
62.	Honolulu, HI	874,000
63.	Birmingham, AL	872,000
64.	Greenville, SC	837,000
65.	Fresno, CA	835,000
66.	Syracuse, NY	754,000
67.	Tulsa, OK	743,000
68.	Tucson, AZ	732,000
69.	Ventura, CA	703,000
70.	Cleveland, OH	677,000
71.	El Paso, TX	665,000

72.	Omaha, NE	663,000
73.	Albuquerque, NM	646,000
74.	Tacoma, WA	638,000
75.	Scranton, PA	637,000
76.	Knoxville, TN	631,000
77.	Gary, IN	620,000
78.	Toledo, OH	614,000
79.	Allentown, PA	612,000
80.	Harrisburg, PA	610,000
81.	Bakersfield, CA	609,000
82.	Youngstown, OH	604,000
83.	Springfield, MA *	584,000
84.	Baton Rouge, LA	558,000
85.	Jersey City, NJ	552,000
86.	Wilmington, DE	539,000
87.	Little Rock, AR	538,000
88.	New Haven, CT *	527,000
89.	Charleston, SC	522,000
90.	Sarasota, FL	518,000
91.	Stockton, CA	518,000
92.	Ann Arbor, MI	515,000
93.	Mobile, AL	512,000
94.	Wichita, KS	507,000
95.	Columbia, SC	486,000
96.	Vallejo, CA	483,000
97.	Fort Wayne, IN	469,000

[**187]

* Population figures for New England's city and town based MSAs are for 1992, while others are for 1994.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cost recovery and allocation issues for number pooling trials in Florida.	DOCKET NO. 001503-TP ORDER NO. PSC-02-0466-PAA-TP ISSUED: April 5, 2002

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

NOTICE OF PROPOSED AGENCY ACTION
ORDER ON FILING A PETITION FOR COST RECOVERY MECHANISMS
FOR THE STATE THOUSANDS-BLOCK POOLING TRIALS

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Thousands-block number pooling is the process by which telephone companies share a pool of telephone numbers that have the same central office code. Historically, telephone numbers have been assigned to service providers in blocks of 10,000 numbers. Thousands-block number pooling allows phone numbers to be allocated to service providers in blocks of 1,000, instead of the historical 10,000 number blocks, which conserves numbers and provides for more efficient number utilization.

DOCUMENT NUMBER-DATE
03853 APR-5 02
FPSC-COMMISSION CLERK

Attachment 10

By Federal Communications Commission (FCC) Order No. FCC 99-249[1], released September 15, 1999, the FCC granted this Commission authority to conduct mandatory thousands-block number pooling trials in Florida. Since receiving authority to mandate state number pooling trials, we have ordered implementation of number pooling trials in the following areas:

Metropolitan Statistical Area	Area Code	Implementation Date of Number Pooling
Ft. Lauderdale	954 and 754	January 22, 2001
West Palm Beach	561	February 5, 2001
Jacksonville	904	April 2, 2001
Keys Region*	305	May 28, 2001
Daytona Beach	386	July 16, 2001
Ft. Pierce-Port St. Lucie	772 (currently 561)	September 17, 2001
Tampa	813	January 14, 2002
Sarasota-Bradenton	941 and 239	February 11, 2002

* The Keys area is not a Metropolitan Statistical Area.

On December 28, 2001, the FCC released Order No. FCC 01-362[2]. This Order directs states that have implemented thousands-block number pooling under delegated authority to commence cost recovery

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[1] Order, CC Docket No. 96-98, Order No. FCC 99-249, released September 15, 1999, In the Matter of the Florida Public Service Commission Petition to the Federal Communications Commission for Expedited Decision for Grant of Authority to Implement Number Conservation.

[2] Third Report and Order and Second Order on Reconsideration, CC Dockets Nos. 96-98 and 99-200, Order No. FCC 01-362, released December 28, 2001, In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability.

actions for state mandated thousands-block number pooling trials if they have not done so already.

The FCC has adopted three cost categories for thousands-block number pooling: (1) shared industry costs [costs incurred by the industry as a whole such as the North American Numbering Plan (NANP) administration costs]; (2) carrier-specific costs directly related to thousands-block number pooling [such as enhancements to carriers' Service Control Point (SCP), Local Service Management System (LSMS), Service Order Activation (SOA), and Operation Support Systems (OSS)]; and (3) carrier-specific costs not directly related to thousands-block number pooling. In Order No. FCC 00-104[3], released March 31, 2000, the FCC found that each carrier should bear its carrier-specific costs not directly related to thousands-block number pooling implementation as network upgrades. Id. at ¶211. The FCC further concluded in this Order that incremental shared industry costs become carrier-specific costs once they are allocated among carriers. Id. at ¶204.

On December 12, 2000, our staff conducted a workshop to solicit input from the industry regarding cost recovery and allocation mechanisms for number pooling trials in Florida. The following is a summary of the post workshop comments:

> ALLTEL Florida, Inc. (ALLTEL) - ALLTEL believes it is more efficient and appropriate for this Commission to defer action on cost recovery procedures until such time as the FCC establishes permanent procedures for national number pooling. At that time, a single recovery system for both state and federal costs should be implemented. Recovery should be through an end user charge for at least three years.
>
> AT&T Communications of the Southern States, Inc. (AT&T) - AT&T believes that the best approach to cost recovery for the Florida interim pooling trials is to wait until the FCC approves a national cost recovery system and to

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[3]Report and Order and Further Notice of Proposed Rule Making, CC Docket No. 99-200, Order No. FCC 00-104, released March 31, 2000, In the Matter of Numbering Resource Optimization.

recover any appropriate interim costs through the same process. A similar process was employed by this Commission for interim number portability cost recovery. Waiting until the national cost recovery process has been specified would avoid the need for any true-up of a state cost recovery system. Given the timetable for the national cost recovery system being developed by the FCC, it would be appropriate to simply wait for that process to conclude. A cost recovery mechanism similar to the interim number portability cost recovery should be applied.

BellSouth Telecommunications, Inc. (BellSouth) - BellSouth believes this Commission should proceed with the implementation of an interim cost recovery mechanism until such time as a national mechanism is in place. It does not believe that Florida's price regulation statute or any other state statute conflicts with the FCC's mandate that the Commission implement a competitively neutral cost recovery mechanism.

BellSouth believes that the cost recovery mechanism established for number portability, with minor modifications, is an appropriate framework for recovering the costs associated with the implementation of state-specific pooling trials. It believes this Commission should allow, but not require, incumbent LECs to recover their carrier-specific costs associated with the implementation of state-specific pooling trials over a two year period through a charge similar to the federal charge allowed for number portability.

The Office of Public Counsel (OPC) - OPC believes that price cap regulation in Florida already provides cost recovery for the local exchange companies. There is no need for a local rate surcharge, as the local exchange industry argues, nor is a surcharge on local rates authorized by the Florida Statutes. The FCC does not have the power to require the FPSC to take an action that is not authorized by Florida Statutes, such as raising local rates through a surcharge, when the price cap statute does not allow such an increase.

Sprint - Sprint would like to see state number pooling costs rolled into a national mechanism from the beginning through an end-user surcharge. The amount of the surcharge should be determined via the same type of methodology that was used to determine the local number portability (LNP) surcharge.

Verizon - Cost recovery should be at the national level under the federal LNP charge. This Commission should order its current LNP charge, $0.36/line statewide, to be used for number pooling, with this surcharge implemented for two months immediately following cessation of the federal charge.

WorldCom - WorldCom had no objections regarding a carrier's methodology for cost recovery of carrier-specific costs, provided the implemented method does not affect other carriers.

In Order No. FCC 00-429[4], released December 29, 2000, the FCC concluded that the amount and detail of the cost data that had been provided in answer to Order No. FCC 00-104 was insufficient for it to determine the amount or magnitude of the costs associated with thousands-block number pooling, and sought comment and cost studies that quantify shared industry and direct carrier-specific costs of thousands-block number pooling. FCC 00-429 at ¶180.

On February 13, 2001, we submitted comments to the FCC regarding Order No. FCC 00-104, stating that the FCC should give state commissions the option to defer state-mandated thousands-block number pooling cost recovery until national thousands-block number pooling is implemented and a federal cost recovery mechanism

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[4]Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200, CC Dockets Nos. 96-98 and 99-200, Order No. FCC 00-429, released December 29, 2000, In the Matter of Numbering Resource Optimization; Petition of Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, 717.

is put in place. At that time, the costs of the state-mandated thousands-block number pooling could be rolled into one recovery mechanism. This would result in having only one number pooling charge on a customer's bill, which would cause less confusion for the customers.

In Order No. FCC 01-362, the FCC acknowledged the argument proffered by some commentators that state costs should be combined with national costs, and all thousands-block number pooling costs should be recovered in the federal jurisdiction. Id. at ¶26. The FCC expressly rejected this proposal, stating that "the entire nation should not be required to bear the costs incurred for the benefit of a particular state." Id. at ¶27. The FCC applauded the efforts that state commissions have made in implementing pooling trials within their respective jurisdictions, but stated that the costs should be covered within those jurisdictions that have enjoyed the benefits of such trials. Id. at ¶24.

COST RECOVERY MECHANISM

As stated in Order No. FCC 01-362, many of the costs associated with thousands-block number pooling are ordinary costs for which no additional or special recovery is appropriate. Id. at ¶25. The FCC has stated that thousands-block number pooling is essentially an enhancement of existing numbering administration procedures designed to extend the life of the existing numbering system. Id. at ¶34. Because the FCC maintains that the costs of numbering administration are generally and appropriately treated as an ordinary cost of doing business, and recovery for numbering administration expenses is already included in basic LEC compensation, LECs seeking recovery of costs must overcome a rebuttable presumption that no additional recovery is justified. Id. at ¶37, ¶39.

Subsequent to the staff workshop and receipt of the post-workshop comments, Order No. FCC 01-362 was released directing state commissions that have exercised delegated authority and implemented state thousands-block number pooling trials to commence cost recovery procedures for state-specific costs, if they have not already done so. To accomplish this, the FCC suggested that states may use the blueprint for cost recovery outlined in Order No. FCC 01-362 and previous orders on national pooling cost recovery.

Shared Industry Costs

The FCC states that the shared costs of thousands-block number pooling, such as code administrator costs, are to be recovered on a competitively neutral basis in accordance with Section 251(e)(2) of the Telecommunications Act of 1996. In Order No. FCC 00-104, the FCC provided guidance regarding the criteria with which a cost recovery mechanism must comply in order to be considered competitively neutral. Specifically, the Order states that the costs of thousands-block number pooling:

> a) should not give one provider an appreciable, incremental cost advantage over another when competing for a specific subscriber; and
>
> b) should not have a disparate effect on competing providers' abilities to earn a normal return.

Order No. FCC 00-104 at ¶199.

In Order No. FCC 00-104, the FCC also concluded that Section 251(e)(2) does not exclude any class of carriers and that all telecommunications carriers must bear numbering administration costs on a competitively neutral basis. Id. at ¶199. It went on to state that allocating shared industry costs only among the carriers participating in thousands-block number pooling would not comply with Section 251(e)(2)'s requirement that all telecommunications carriers bear the cost of numbering administration on a competitively neutral basis. Id. at ¶207.

By Order No. PSC-00-1046-PAA-TP, issued May 30, 2000, we ordered that if the industry could not decide on a method to allocate shared industry costs for number pooling in the 954, 561, and 904 NPAs, we would select a method from options provided by the Joint Petitioners. In a September 28, 2000, letter to us, the carriers agreed by a consensus vote that the appropriate cost allocation methodology to apply to shared industry costs should be the modified version of the LNP method[5], and that these shared or

[5]The modified version of the LNP cost allocation methodology would use the Southeastern LNP Regional allocation percentages to assign the Pooling Administration costs to service providers(SP) in the state of Florida. A service

common pooling costs should be allocated among all service providers in Florida. We find that this methodology for allocating shared industry costs meets the requirement of being competitively neutral. Therefore, this methodology for shared industry number pooling costs shall also apply to all other state-mandated pooling trials. Once shared industry costs are allocated among the carriers, they become carrier-specific costs.

Carrier-Specific Costs

Carrier-specific costs are costs directly related to thousands-block number pooling, and shared-industry costs once they are allocated to the carrier. The thousands-block number pooling costs are enhancements to carriers' Service Control Point (SCP), Local Service Management System (LSMS), Service Order Activation (SOA), and Operation Support Systems (OSS). We find that the following criteria, established by the FCC for national pooling cost recovery, shall also be adhered to by carriers petitioning for recovery of state number pooling trial costs:

1. A carrier needs to show that pooling results in a net cost increase rather than a cost reduction. According to the FCC, thousands-block number pooling may reduce network costs, and to the extent that thousands-block pooling postpones or avoids area code relief and ultimately the replacement of the North American Numbering Plan, all carriers and subscribers will benefit. A carrier seeking recovery shall demonstrate that its costs exceed the costs that would have been incurred had the carrier engaged in an area code split, overlay or other numbering relief that would otherwise have been required in the absence of pooling.

2. Only costs that were incurred "for the provision of" thousands-block number pooling are eligible for recovery through this extraordinary mechanism, but these must also be costs that would not have been incurred "but for" thousands-

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provider that does not provide service in the state of Florida would be excluded from the allocation percentages, and costs would be reallocated to the remaining carriers providing service in the state of Florida. This would result in a fair and equitable allocation to all SP in the State of Florida, as all carriers benefit from number pooling whether they are LNP capable or not.

block number pooling. This means that only the demonstrably incremental costs of thousands-block number pooling may be recovered.

3. Thousands-block number pooling costs must also be "new" costs in order to qualify for recovery through the extraordinary mechanism. Costs incurred prior to the implementation of thousands-block number pooling are ineligible for recovery because they are embedded investments already subject to recovery through standard mechanisms (i.e., the number portability end-user charge or query charge).

4. The number pooling costs for which recovery is requested shall only be Florida-specific costs not related to national number pooling. Paragraph 29 of Order No. FCC 01-362 reads:

> Carriers maintain that the bulk of their costs attributable to thousands-block number pooling are incurred on a regional, rather than a state-specific, level and thus they are uncertain how to allocate costs between the federal and the state jurisdiction. When carriers have incurred costs directly related to thousands-block number pooling at the state level prior to the implementation of national thousands-block pooling, the advancement costs of state-specific deployment should be attributed to the state jurisdiction. In other words, carrier-specific costs directly related to number pooling that are incurred for national implementation of thousands-block number pooling should be recoverable through the federal mechanism, but any costs attributable to advance deployment at the state level will be subject to state recovery mechanisms. Advancement costs should be allocated among study areas according to normal accounting procedures and assigned directly to the state jurisdiction.

5. The costs shall be recovered on a competitively neutral basis in accordance with Section 251(e)(2) of the Telecommunications Act of 1996. In Order No. FCC 00-104, the FCC provided guidance regarding the criteria with which a cost recovery

mechanism must comply in order to be considered competitively neutral, stating that the costs of thousands-block number pooling:

a) should not give one provider an appreciable, incremental cost advantage over another when competing for a specific subscriber; and

b) should not have a disparate effect on competing providers' abilities to earn a normal return.

Order No. FCC 00-104 at ¶ 199.

The FCC also concluded that carriers not subject to rate regulation, such as CLECs and CMRS providers, may recover their carrier-specific costs directly related to implementation of thousands-block number pooling in any lawful manner consistent with their obligations under the Act. Order No. FCC 01-362 at ¶32.

In summary, the carriers shall be allowed the opportunity to seek recovery of costs associated with state-mandated pooling trials. For shared industry costs for all state pooling trials, the appropriate cost allocation methodology shall be the modified version of the LNP method, and the shared or common pooling costs shall be allocated among all service providers in Florida. Carriers seeking recovery of carrier-specific costs shall make a filing with this Commission detailing the means by which they propose to recover their costs consistent with FCC guidelines and in accordance with federal and state statutes. The carriers' filings should show that:

1) pooling results in a net cost increase rather than a cost reduction;
2) the costs would not have been incurred "but for" and "for the provision of" thousands-block number pooling;
3) the costs are "new" costs;
4) the costs for which recovery is requested are Florida-specific costs not related to national number pooling; and,
5) the costs will be recovered on a competitively neutral basis in accordance with Section 251(e)(2) of the Telecommunications Act of 1996.

Commission regulated carriers seeking recovery shall file a petition with a cost recovery mechanism that meets federal and state law and all supporting documents related to their cost analysis with the Commission within 90 days after the issuance of this Order and tariffs thereafter. After reviewing the filings, a recommendation shall be filed for consideration by this Commission and upon Commission approval thereafter tariffs may be filed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Commission regulated carriers seeking recovery shall file a petition with a cost recovery mechanism that meets federal and state law and all supporting documents related to their cost analysis with this Commission within 90 days after the issuance of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that this docket shall remain open pending consideration of the petitions filed by the regulated carriers.

By ORDER of the Florida Public Service Commission this 5th day of April, 2002.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

PAC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 26, 2002.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

#11

*2001 Mich. PSC LEXIS 450, **

In the matter, on the Commission's own motion, to consider the implementation of limited number pooling trials

Case No. U-**13086**

MICHIGAN PUBLIC SERVICE COMMISSION

2001 Mich. PSC LEXIS 450

November 20, 2001

CORE TERMS: pooling, carrier, portability, carrier-specific, state-specific, allocated, provider, Michigan Telecommunications Act, doing business, area code, numbering, administrator, competitively, conservation, negotiations, end-user

PANEL: [*1] PRESENT: Hon. Laura Chappelle, Chairman; Hon. David A. Svanda, Commissioner; Hon. Robert B. Nelson, Commissioner

OPINION: At the November 20, 2001 meeting of the Michigan Public Service Commission in Lansing, Michigan.

OPINION AND ORDER

On August 24, 2001, the Commission received conditional authority from the Federal Communications Commission (FCC) to institute thousands-block number pooling in five area codes. n1 On September 7, 2001, the Commission issued an order requesting comments on how best to conduct the number pooling trials in Michigan, including comments on a cost recovery mechanism. Verizon North Inc. (Verizon), Ameritech Michigan, VoiceStream Wireless, Inc., and AT&T Communications of Michigan, Inc., (AT&T) submitted comments regarding cost recovery. On October 11, 2001, the Commission issued an order addressing the other issues and requiring that a number pooling trial begin in the 313 NPA no later than February 24, 2002 and in the 734 NPA no later than July 1, 2002. The order stated that cost recovery issues would be addressed at a later date.

- - - - - - - - - - - - - - - - - -Footnotes- - - - - - - - - - - - - - - - - -

n1 In the Matter of Numbering Resource Optimization, CC Docket 99-200, NSD-L-01-34, August 24, 2001.

- - - - - - - - - - - - - - - - - -End Footnotes- - - - - - - - - - - - - - - - - **[*2]**

In its comments, Verizon requested that number pooling costs be recovered using a one-time, end-user charge. Ameritech Michigan said that a temporary adjustment to the local number portability (LNP) end-user surcharge should be instituted to avoid the need to create a new line item on customers' bills. VoiceStream Wireless stated that shared industry costs should be allocated among all carriers in Michigan. AT&T stated that each carrier should bear its own carrier-specific costs and that the recovery of shared industry costs should be based on state-specific data.

Attachment 11

Allocation of Shared Industry Costs

The shared industry costs of administering number pooling include initial meeting costs and the costs of the pooling administrator. The October 11, 2001 order directed the industry to begin negotiations through North American Portability Management, LLC, (NAPM) to develop a contractual agreement to provide payment to NeuStar, Inc., as Michigan's interim number pooling administrator. All industry members were directed to be partners in the negotiations with the NAPM.

On November 8, 2001, NeuStar facilitated the initial number pooling implementation meeting for the 313 NPA. During **[*3]** the implementation meeting, the industry reached consensus that the costs associated with number pooling administration for the 313 number pooling trial would be allocated according to the LNP model on a state-specific basis. The LNP model dictates that joint industry costs are to be allocated to each carrier in proportion to its interstate, intrastate, and international telecommunications revenue. The Commission agrees that the state-specific shared industry costs should be allocated according to the LNP methodology, and notes that the costs become carrier-specific costs upon allocation to the carriers. n2

- - - - - - - - - - - - - - - - - -Footnotes- - - - - - - - - - - - - - - - - -

n2 First Report and Order, FCC 00-429, P179.

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Cost Recovery

The Commission considers the carrier-specific costs related to number pooling, such as equipment upgrades and employee training, as well as the shared industry costs allocated to carriers as discussed above, to be a cost of doing business. As such, the Commission need not provide a special cost recovery mechanism. This treatment of the costs is consistent **[*4]** with the requirements of the FCC. It requires that any cost recovery mechanism be competitively neutral, and has concluded that treating these costs as a cost of doing business is competitively neutral. n3

- - - - - - - - - - - - - - - - - -Footnotes- - - - - - - - - - - - - - - - - -

n3 First Report and Order, FCC 00-104, P208.

- - - - - - - - - - - - - - - - - -End Footnotes- - - - - - - - - - - - - - - - -

The commenting parties failed to offer any compelling reason why the costs of number pooling should be treated as any different than the costs of other required updates of current systems. Furthermore, numbering resources are allocated to carriers without charge, and number conservation efforts, such as number pooling, will reduce carriers' costs by enabling all carriers to receive numbering resources without the need for rationing and jeopardy proceedings. In addition, although number pooling will not alleviate the need for area code relief, number conservation efforts may avoid the need for some future area code relief and the cost of system changes for any required area code relief will be negligible.

LNP-Capability Requirements in Michigan

In the course of **[*5]** preparing for the number pooling trials, the Commission has become aware of an issue that should be addressed. Number portability is the technical cornerstone of number pooling, and, in 1998, the FCC approved a five-year line item charge to reimburse carriers for "carrier specific costs directly related to long-term number portability." n4 Furthermore, Section 358(2) of the Michigan Telecommunications Act, MCL 484.2358(2), states: "No later that January 1, 1999, a provider of basic local exchange service shall provide number portability." Accordingly,

the Commission expects all providers of basic local exchange service to be prepared to port and pool numbers within the rate centers where they have received telephone numbers.

- - - - - - - - - - - - - - - - - -Footnotes- - - - - - - - - - - - - - - - -

n4 Third Report and Order, Telephone Number Portability, CC 95-116, P149, March 12, 1998.

- - - - - - - - - - - - - - - - -End Footnotes- - - - - - - - - - - - - - - - -

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, **[*6]** as amended, 1992 AACS, R 460.17101 et seq.

b. The industry and NeuStar should work with the NAPM to develop a cost allocation for state-specific number pooling administration costs based on the LNP model.

c. Carrier-specific number pooling costs should be considered a cost of doing business that does not require a special cost recovery mechanism.

d. All providers of basic local exchange service are required to comply with the number portability provisions of Section 358 of the Michigan Telecommunications Act.

THEREFORE, IT IS ORDERED that:

A. The industry and NeuStar, Inc., shall work with North American Portability Management, LLC, to develop a cost allocation for state-specific number pooling administration costs based on the local number portability model.

B. A special cost recovery mechanism is not approved for recovery of carrier-specific costs associated with number pooling.

C. All providers of basic local exchange service in Michigan are subject to sanctions for failing to comply with the number portability provisions of the Michigan Telecommunications Act, MCL 484.2358 and federal law.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party **[*7]** desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

By its action of November 20, 2001.

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*2001 Ariz. PUC LEXIS 5, *; 212 P.U.R.4th 364*

IN THE MATTER OF THE GENERIC INVESTIGATION INTO NUMBER RESOURCE OPTIMIZATION AND IMPLEMENTATION OF NUMBER POOLING IN ARIZONA

DOCKET NO. T-**00000A-01-0076;** DECISION NO. 63982

Arizona Corporation Commission

2001 Ariz. PUC LEXIS 5; 212 P.U.R.4th 364

August 30, 2001

CORE TERMS: pooling, carrier, recommend, thousands-block, consolidation, implemented, numbering, recommended, telecommunications, conservation, carrier-specific, interval, software, network, pool, commenters, exhaust, providing service, joint-industry, utilization, guidelines, allocated, effective, recommendation, incumbent, area code, contamination, implementing, scheduled, mandatory

PANEL: [*1] WILLIAM A. MUNDELL, Chairman; JIM IRVIN, Commissioner; MARC SPITZER, Commissioner

OPINION: ORDER

Open Meeting
August 28 and August 29, 2001
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

I. INTRODUCTION

1. The rapid growth of competition and the proliferation of new telecommunications services have intensified the use of numbering resources. Efficient use of numbering resources is necessary to protect both carriers and customers from the expense and inconvenience that result from frequent implementation of new area codes. This Order will provide the foundation for thousands-block number pooling in Arizona to conserve numbering resources subject to the conditions contained in this Order.

II. BACKROUND AND PROCEDURAL HISTORY

A. State Proceedings

2. On December 23, 1999, the Arizona Corporation Commission ("ACC" or "Commission") petitioned the Federal Communication Commission ("FCC") for Expedited Delegation of Authority to Implement Number Conservation Measures. In its Petition, the ACC requested additional authority to:

Attachment 12

a. Implement mandatory thousands-block number pooling.
b. Ensure efficient number use practices such as fill rates or sequential number assignment.
[*2] c. Establish interim mandatory number utilization data reporting and forecasting requirements.
d. Establish auditing procedures and implement random audits.
e. Require the return of unused NXX codes (prefixes) by carriers to the code administrator.
f. Require the return of unused or under-utilized portions of NXX codes to the Pooling Administrator when one is selected.

3. On July 20, 2000, the FCC granted, in part, the Petitions of Arizona and several other States. See, In the Matter of Numbering Resource Optimization, et. al., Docket No. 99-200 et. al., Order, (Rel. July 20, 2000) ("FCC Numbering Optimization Order"). In the FCC Numbering Optimization Order, Arizona was delegated the authority to institute thousands-block number pooling in the 480, 520, 602 and 623 NPA's and the authority to conduct audits of a carrier's use of numbering resources, consistent with national numbering guidelines.

4. On December 28, 2000, the ACC solicited competitive proposals and bids for the selection of an Interim Thousands-Block Arizona Pooling Administrator. Such proposals and bids were to be submitted no later than 4:00 p.m. Arizona time on January 30, 2001.

5. NeuStar, Inc. ("NeuStar") **[*3]** and Telcordia Technologies, Inc. ("Telcordia") submitted proposals and bids on January 26, 200,1 and January 29, 2001, respectively.

6. On February 13, 2001, the ACC ordered that a Generic Investigation be commenced for the purpose of obtaining comments from interested parties and members of the industry concerning implementation of number pooling and other conservation methods in the State of Arizona.

7. The Procedural Order requested that interested parties and Industry comment on the following questions no later than March 7, 2001:

a. Which Metropolitan Statistical Area ("MSA") should be selected for the first pooling trial?
b. If the MSA contains multiple NPAs (area codes), which NPA should be first?
c. What is an appropriate interval for implementing number pooling between NPAs where more than one exists in a MSA?
d. If the geographic area of a NPA is greater than the MSA, should number pooling be implemented in the entire NPA?
e. How soon in 2001 might a number pooling trial begin?
f. How should number pooling costs be allocated (all carriers, pooling carriers only, only carriers within the MSA, etc.)?
g. How should number pooling costs be recovered?
h. Are there unique aspects **[*4]** of your network in Arizona as compared to those found in states where number pooling has already been implemented?
i. Are there rate centers within the state that can be consolidated? If so which ones and how soon could it be accomplished?
j. What degree of contamination (i.e. 5%, 10% etc.) should be allowed in thousands-blocks donated to the numbering pool?
k. What other issues should be addressed as part of a pooling trial?
l. What additional number conservation methods may be implemented to maximize the life of the NPAs within Arizona?

8. Written comments were subsequently filed by AT&T Communications of the Mountain States, Inc. and TCG Phoenix (collectively "AT&T"), Cox Arizona Telecom, L.L.C. ("Cox"), Qwest Corporation ("Qwest"), Time Warner Telecom of Arizona, L.L.C. ("Time Warner"), Winstar Wireless,

Inc. ("Winstar"), and WorldCom, Inc. ("WorldCom").

B. Related Federal Proceedings

9. On March 31, 2000, the FCC released a Report and Order and Further Notice of Proposed Rulemaking (In The Matter of Numbering Resource Optimization, Docket No. 99-200, ("NRO")) with the stated goals of ensuring that the limited numbering resources of the North American Number Plan ("NANP") **[*5]** are used efficiently and that all carriers have the numbering resources they need to compete in the rapidly growing market place. Adopted in this Order is a single system for allocating numbers in blocks of 1,000, wherever possible, and establishing a plan for national rollout of thousands-block number pooling.

10. Furthermore, in the NRO Order the FCC adopted administrative and technical measures that will promote more efficient allocation and use of NANP resources. Among the measures adopted are:

a. A uniform set of categories of numbers for which carriers must report their utilization.
b. A mandatory utilization data reporting requirement.
c. A process that requires carriers to demonstrate that they need numbering resources to provide services.
d. A utilization threshold framework to increase carrier accountability.
e. Numbering resource reclamation requirements to ensure the return of unused numbers to the NANP inventory.
f. A mandate that carriers fill their need for numbers out of "open" thousands blocks before beginning to use numbers from new blocks.

11. On December 8, 2000, the FCC issued a Request for Proposal ("RFP") inviting bids from three potential bidders known **[*6]** for having experience in numbering administration. On or about January 8, 2001, NeuStar and Telcordia provided proposals in response to the RFP. The FCC anticipated selection of the National Pooling Administrator in the first quarter of 2001 but did not do so.

12. The FCC continues to develop, adopt and implement a number of strategies to ensure that the numbering resources of the NANP are used efficiently. In its NRO Second Report and Order (In the Matter of Number Resource Optimization, et. al., Second Report and Order, et. al., Docket No. 99-200, et. al. (Released December 29, 2000)), the FCC adopted additional measures to promote efficient allocation of NANP resources which include:

a. Establishment of a utilization threshold of 60% (increasing to 75% over three years) that carriers must meet before receiving additional numbering resources in a given rate center.
b. Not setting a transition period between the time Commercial Mobile Radio Services ("CMRS") carriers must implement Local Number Portability ("LNP") (November 24, 2002) and the time they must participate in mandatory number pooling.
c. A comprehensive audit program to verify carrier compliance with Federal **[*7]** rules and orders and industry guidelines.

13. On June 18, 2001, the FCC selected NeuStar as the National Thousands-Block Number Pooling Administrator. The first round of implementation is scheduled to begin in March 2002 with initial concentration on area codes in the top 100 MSAs.

III. STAFF RECOMMENDATIONS

14. The following are Staff's recommendations on the twelve issues raised in the March 7, 2001 Procedural Order seeking comment from the Industry and other interested parties concerning

implementation of number pooling and other conservation methods in Arizona.

A. Which Metropolitan Area should be selected for the first pooling trial?

15. AT&T, Qwest, Winstar and WorldCom recommended that the Phoenix MSA be selected for the first pooling trial. n1 Time Warner recommended the MSA with the greatest number of providers and having a NPA in jeopardy of exhaust be selected. Time Warner Comments at p. 2. Cox, on the other hand, believes that the Tucson MSA presents a more manageable location for a pooling trial. Cox Comments at p. 1.

n1 AT&T Comments at p. 1; Qwest Comments at p.2; Winstar Comments at p. 1; WorldCom Comments at p. 1.

16. The Phoenix MSA is the most populous **[*8]** MSA in the State, has undergone rate center consolidation and has NPAs which are most likely to exhaust first and need area code relief. According to NANPA's June 1, 2001 Exhaust Analysis, the forecasted exhaust of the 602 NPA is 1Q2006 and 2Q2008 for the 480 NPA.

17. The Tucson MSA consists of a single NPA (520) and the Tucson local calling area has also undergone rate center consolidation. The 520 NPA is in the process now of undergoing a geographic split. Permissive dialing began on June 23, 2001, and mandatory dialing is scheduled for January 5, 2002. To avoid conflicts with the relief activity currently in progress, Staff believes that the Tucson MSA should not be selected for the first pooling trial. Further, the forecasted exhaust date after the split should be further in the future than that anticipated for 602 and 480.

18. Thus, Staff recommends that the Phoenix MSA should be selected for the first thousands block number pooling trial in Arizona.

B. If the MSA contains multiple NPAs, which NPA should be first?

19. AT&T, Qwest and Winstar recommend that number pooling initially be implemented in the 602 NPA of the Phoenix MSA. n2 Cox recommends the 480 NPA be selected. **[*9]** n3 Time Warner recommends the NPA in greatest jeopardy of exhaust and WorldCom recommends the NPA with the most unassigned prefixes. n4

n2 AT&T Comments at p. 1; Qwest Comments at p. 2; Winstar Comments at p. 1.

n3 Cox Comments at p. 1.

n4 Time Warner Comments at p. 4; WorldCom Comments at p. 2.

20. Staff agrees with the recommendations of AT&T, Qwest, Winstar and Time Warner. Staff believes that implementing number pooling in order of projected exhaust dates will best extend the life of each NPA. The Phoenix MSA comprises Maricopa and Pinal Counties and contains five NPAs (480, 602, 623, 520 and 928). In order of projected exhaust dates, the 602 NPA is first, followed by 480, and 623. NANPA will project new exhaust dates for 520 and 928 after completion of the geographic split. Thus Staff recommends that number pooling be established in the 602 NPA first followed by the 480 NPA.

C. What is an appropriate interval for implementing number pooling between NPAs where more than one exists in a MSA?

21. AT&T recommends 4 months as an appropriate interval between NPAs. n5 Other suggested intervals were three to six months (Cox), six months (Qwest) and three months (Winstar). **[*10]** n6 Time Warner did not provide a recommendation and WorldCom recommended the FCC specified interval of three NPAs per quarter established by the Number Portability Administration Center ("NPAC") be followed. n7

n5 AT&T Comments at p. 2.

n6 Cox Comments at p. 1; Qwest Comments at p. 3; Winstar Comments at p. 1.

n7 WorldCom Comments at p. 2.

22. While the views expressed by the commenters ranged from six months to three months, Staff believes that unique circumstances should allow for shorter intervals between NPAs in the Phoenix MSA. The NPAs are in the same rate center, thus some carriers may have only one switch providing service to multiple NPAs in the local calling area.

23. Experience from other jurisdictions indicates a more abbreviated interval than that recommended by many of the parties is appropriate. The schedule for thousands-block number pooling in other jurisdictions has included shorter implementation intervals between NPAs. For example, at the July 17, 2001, First Implementation Meeting for Indiana NPAs 217 and 319, the Industry agreed upon a one month interval.

24. Therefore, Staff recommends that a one month interval be utilized between the 602 and 480 **[*11]** NPAs for thousands-block number pooling.

D. If the geographic area of a NPA is greater than the MSA, should number pooling be implemented in the entire NPA?

25. AT&T, Time Warner, Winstar and WorldCom recommend that where the geographic area of a NPA is larger than a MSA, number pooling be implemented in the entire NPA. n8 Winstar stated that dividing a NPA for purposes of pooling adds a layer of complexity that is unnecessary. AT&T commented that by not implementing pooling in the entire NPA, the benefit of prolonging the life of the NPA would diminished. Cox had no position on the question. Qwest supported implementing pooling in rate centers that are within the geographic boundaries of the MSA in accordance with FCC guidelines. n9

n8 AT&T Comments at p. 2; Time Warner Comments at p. 5; Winstar Comments at p. 2; WorldCom Comments at pps. 2-3.

n9 Qwest Comments at p. 3.

26. Staff concurs with Qwest, FCC guidelines do not currently allow for implementation of number pooling in rate centers of a NPA that are outside the geographic area of the MSA. Staff also concurs with the majority of commenters that additional benefits can be gained when polling is implemented across **[*12]** an entire NPA. Therefore, Staff recommends that the Industry voluntarily implement number pooling in all rate centers in a NPA where Local Number Portability ("LNP") has been established and that wireline non-LNP carriers be excluded from the pool until such time as they are required to become LNP capable due to a bona fide request ("BFR").

E. How soon in 2001 might a number pooling trial begin?

27. Generally, AT&T, Cox and WorldCom recommend that implementation of number pooling commence in third quarter, 2001. n10 The recommendation of Qwest and Winstar would place implementation in fourth quarter, 2001. n11 Time Warner recommends deferring until the national implementation of number pooling. n12 WorldCom also recommends that a criteria for the implementation of pooling be the availability of NPAC software release 3.0. n13

n10 AT&T Comments at p. 2; Cox Comments at p. 2; WorldCom Comments at p. 3.

n11 Qwest Comments at p. 3; Winstar Comments at p. 2.

n12 Time Warner Comments at p. 5.

n13 WorldCom Comments at p. 3.

28. Staff agrees with WorldCom that it would be preferable to implement pooling once NPAC software release 3.0 is available, since this software release **[*13]** improves the efficiency of transmitting pooling data. The availability of this release has been rescheduled and it is currently anticipated that it will be available in late 4Q2001. Pending NPAC software 3.0's release, software release 1.4 has been installed at the Western Region NPAC and is available to support a pooling trial in Arizona. To the extent release 3.0 is not available, Staff believes that release 1.4 is sufficient and is not of itself reason enough to delay timely implementation of number pooling in Arizona.

29. Other considerations are avoiding conflict with the implementation of the 520/928 NPA split, pooling trials that may have been scheduled in other portions of the Western NPAC Region and the ability of the National Pooling Administrator to support additional state pooling trials.

30. After considering the comments of the parties and the factors discussed above, Staff recommends that number pooling for the first NPA commence in January 2002. Staff believes this will provide the Industry sufficient time for planning, increase the possibility for availability of NPAC software release 3.0, and minimize the potential for conflict with other pooling trials.

F. How [*14] should number pooling costs be allocated?

31. AT&T recommends that number pooling costs should be allocated to all carriers in the State. n14 Cox and Winstar recommend that number pooling costs be allocated to all carriers providing service in the number pooling area. n15 Qwest, Time Warner and WorldCom all advocated that costs should be allocated across all carriers but did not explicitly indicate a geographic scope. n16

n14 AT&T Comments at p. 5.

n15 Cox Comments at p. 2; Winstar Comments at p. 2.

n16 Qwest Comments at pps. 3-6; Time Warner Comments at p. 5-6; WorldCom Comments at p. 3.

32. Number conservation positively benefits all telecommunications carriers in the State. Number pooling will delay the need for area code relief, particularly in metropolitan NPAs, which allows all carriers to avoid the additional costs that would be incurred due to any relief plan. Furthermore, section 252(e)(2) requires that all telecommunications carriers bear the cost of numbering administration and in its NRO Order the FCC concluded "*that the costs of thousands-block number pooling be allocated to all telecommunications carriers. . . .*" Id. at para. 20.

33. With respect **[*15]** to the method of allocation, AT&T, Qwest and WorldCom all essentially recommend that the FCC LNP cost model be used. Under the FCC LNP cost model, joint-industry costs would be allocated to all telecommunications carriers in proportion to each carrier's interstate, intrastate and international telecommunications revenues. Cox, Time Warner, and Winstar, on the other hand, generally recommend that cost should be allocated among carriers based on the number of access lines served by a specific carrier in relation to the total number of access lines in the area designated for cost allocation.

34. Staff recommends that cost allocation methodology for the Arizona pooling trials be based upon pro rata allocation of cost to all telecommunications carriers providing service within the state in proportion to each carrier's interstate, intrastate and international telecommunications revenues; irrespective of whether carriers may or may not participate in the pooling trial. Staff believes this approach is consistent with the approach used by the FCC in the LNP context and is competitively neutral.

G. How should number pooling costs be recovered?

35. Commenters generally identified two types **[*16]** of costs that the industry would incur that the FCC has determined could be subject to recovery. They were (1) joint-industry costs and (2) carrier-specific costs directly related to number pooling ("carrier-specific costs"). Joint-industry costs include costs to update LNP databases with each telephone number added to the pool, costs of the NPAC's software capability and costs due to the Pooling Administrator. Carrier-specific costs include costs directly related to thousands-block number pooling implementation such as enhancements to a carrier's Service Control Point ("SCP") and Operational Support Systems ("OSS") systems.

36. All commenters concurred that joint-industry costs should be subject to a recovery mechanism. Qwest recommends that carrier-specific costs directly related to thousands-block number pooling also be subject to a recovery mechanism. n17 AT&T, Cox, Time Warner, Winstar and WorldCom, on the other hand, recommend that carrier-specific costs should be the responsibility of each carrier. n18 As succinctly stated by AT&T in its response, ". . . the costs each carrier will incur to modify its own systems and network to operate in a number pooling environment are merely **[*17]** costs of doing business that each carrier can, and should, bear itself". AT&T Comments at p. 3.

n17 Qwest Comments at p. 9.

n18 AT&T Comments at p. 6; Cox Comments at p. 2; Time Warner Comments at p. 6; Winstar Comments at p. 2; WorldCom Comments at p. 3.

37. AT&T and WorldCom also emphasized that number pooling costs must be recovered in a competitively neutral manner and that recovery methods should not permit one carrier to recover its pooling costs from another. If carrier-specific cost recovery were permitted by the ACC, AT&T recommended that the recovery method not permit recovery from access charges, unbundled network elements total service resale rate elements or any other wholesale rates.

38. In its July 20, 2000, Order delegating authority to implement number pooling to Arizona and certain other States, the FCC indicated that States conducting their own pooling trials must develop their own cost recovery mechanism and that the State cost-recovery mechanisms must transition to the national cost-recovery plan when the latter becomes effective. Id. at P21 The FCC's NRO Order specifically states, "Until national thousands-block number pooling is implemented, states **[*18]** may use their current cost recovery mechanisms. . ." Order at P197

39. Staff concurs that joint-industry costs should be subject to a recovery mechanism. Further, Staff concurs with the majority of commenters that carrier-specific costs are merely costs of doing business and should not be subject to a special cost recovery mechanism. Competitive local exchange carriers ("CLECs") and incumbent local exchange carriers ("ILECs") may seek recovery through their respective regulatory paradigms; i.e. tariff filings, rate cases or to the extent permitted under the terms of an alternative form of regulation ("AFOR") plan. Finally, Staff recommends that recovery from access charges, unbundled network elements total service resale rate elements or any other wholesale rates not be permitted.

40. In the alternative, if the Commission determines that carrier-specific costs be subject to recovery through a special cost recovery mechanism, Staff recommends that a State cost recovery mechanism be addressed in a future docket to allow development of a more complete record.

H. Are there unique aspects of your network in Arizona as compared to those found in States where number pooling has already [*19] been implemented?

41. AT&T, Cox, Time Warner, Winstar and WorldCom concurred that there were no unique aspects to their network in Arizona as compared to their networks in other States where number pooling has already been implemented. n19 Qwest noted that the Phoenix rate center is three separate

NPAs that will require distinct pools and implementation schedules. n20 In addition, Qwest recommended that a pooling schedule not conflict with the area code split that is scheduled for the 520 NPA.

n19 AT&T Comments at p. 5; Cox Comments at p. 2; Time Warner Comments at p. 6; Winstar Comments at p. 3; WorldCom Comments at p. 4.

n20 Qwest Comments at p. 10.

I. Are there rate centers within the State that can be consolidated? If so which ones and how soon could it be accomplished?

42. AT&T indicated support for rate center consolidation but did not recommend a specific consolidation plan. n21 Likewise, Winstar supports rate center consolidation, but expressed caution to insure 911 default routing is minimally impacted. n22 Winstar concluded its comments, however, by stating its belief that there were no appropriate rate centers within Arizona that could be consolidated. Qwest **[*20]** also supports rate center consolidation on a case-by-case basis. n23 Qwest recommended that any such consolidations be revenue and expense neutral and occur between rate centers within the same local calling area.

n21 AT&T Comments at p. 5.

n22 Winstar Comments at p. 3.

n23 Qwest Comments at p. 10-12.

43. Qwest expressed concern, however, that rate center consolidation might make it more difficult for carriers to meet the utilization threshold and months-to-exhaust criteria mandated by the FCC which are determined on rate center basis. After studying its thirteen rate centers that share common local calling, Qwest concluded that they were not strong candidates for consolidation because only two NXX codes would have been saved over a two-year period.

44. Cox and WorldCom took no position on the subject. Time Warner indicated there are issues with rate center consolidation which it has not examined and reserved its right to supplement its response at a later date. n24

n24 Time Warner Comments at p. 6.

45. In its July 20, 2000, Order delegating authority to implement number pooling to Arizona and certain other States, the FCC strongly encouraged State regulatory commissions **[*21]** to proceed as expeditiously as possible to consolidate rate centers. Id. at para. 59. Where multiple rate centers exist in a local calling area, rate center consolidation will reduce the number of NXX codes a new entrant will need to provide service in the calling area. In addition, it will avoid hardship to consumers. Many rural communities in Arizona are now in the process of having to change to their third area code (from 602 to 520 to 928). Implementation of a number conservation method that may prolong the life of rural NPAs will benefit both the public and Industry by deferring the costs, administrative burden and confusion due to area code relief as long as possible.

46. Staff does not recommend, at this time, consolidation of rate centers that do not currently have the same local calling area. This should be evaluated in the context of a rate case. However, Staff does recommend rate center consolidation where multiple rate centers currently have the same local calling area and further recommends that such rate center consolidations become effective within twelve months of the effective date of this Order. The following are illustrative of where rate center consolidation **[*22]** may be possible and that should be evaluated by the incumbent wireline local exchange carriers.

Rate Centers in Calling Area		Proposed Consolidated Rate Center
Globe, Miami		Globe
Casa Grande, Coolidge, Eloy, Florence, Maricopa		Casa Grande
Ash Fork, Cameron, Flagstaff, Munds Park, Williams	Flagstaff	
Chino Valley, Humbolt, Prescott		Prescott
Camp Verde, Cottonwood, Sedona		Sedona
Joseph City, Winslow		Winslow
Nogales, Patagonia	Nogales	
Wellton, Yuma	Yuma	
Aguila, Wickenburg, Yarnell		Wickenburg
Roosevelt Lake, Tonto Basin		Roosevelt Lake
Golden Valley, Kingman		Kingman

J. What degree of contamination (i.e. 5%, 10%, etc.) should be allowed in thousandsblocks donated to the numbering pool?

47. AT&T, Cox, Qwest, Time Warner and WorldCom generally recommend that the ACC follow the established national guidelines and require that all thousands-blocks that have no more than ten percent contamination be considered for donations to the pool. n25 Winstar recommends that only uncontaminated blocks be allowed in numbering pools. n26

n25 AT&T Comments at p. 5; Cox Comments at p. 3; Qwest Comments at p. 12; Time Warner Comments at p. 7; WorldCom Comments at p. 4.

n26 Winstar Comments at p. 3. **[*23]**

48. Staff concurs with the majority of commenters. National guidelines have been established by the FCC in its NRO Order which require all carriers to donate all thousands-blocks that have less than a tenpercent contamination level to the thousands-block number pool for each rate center. Id. at P191.

K. What other issues should be addressed as part of a pooling trial?

49. AT&T referenced selection of a Pooling Administrator ("PA"), the North American Portability Management ("NAPM") Limited Liability Corporation ("LLC") entering into a contract with the selected PA, determination of a cost recovery methodology and cost allocation as issues to be addressed. n27 Cox recommended that procedures for monitoring and enforcing compliance should be in place prior to the start of a number pooling trial. n28 Qwest recommended that number pooling criteria for a trial conform to national standards. n29 Time Warner recommended that pooled numbers be readily available to carriers with a demonstrated need. n30 Winstar recommended the ACC give equal weight to the proposals of any potential bidders for a PA in Arizona. n31 WorldCom had no comment on this topic.

n27 AT&T Comments at pps. 5-6. **[*24]**

n28 Cox Comments at p. 3.

n29 Qwest Comments at p. 12.

n30 Time Warner Comments at p. 7.

n31 Winstar Comments at p. 4.

50. Staff generally concurs with the recommendations of the commenters. Further, the FCC in its NRO Order and in the NRO Second Report and Order has established the national framework of standards that addresses the concerns expressed by some of the commenters.

L. What additional number conservation methods may be implemented to maximize the life of the NPAs within Arizona?

51. AT&T identified thousands-block number pooling as the next logical step since rate center consolidation has already been implemented in both Phoenix and Tucson. n32 Cox recommended that unassigned number pooling should be implemented. n33 Qwest recommended that the Industry should comply with the number conservation methods defined in the FCC NRO Order and that the ACC should periodically review each service provider's number utilization reports. n34 Time Warner and WorldCom had no comments on this issue. Winstar expressed conviction that ten-digit dialing could be the single most effective means of conserving the number resource. n35

n32 AT&T Comments at p. 6.

n33 Cox Comments at p. 3. **[*25]**

n34 Qwest Comments at p. 12.

n35 Winstar Comments at p. 4.

52. While Staff has no recommendations on additional conservation measures at this time, other than future rate center consolidation where appropriate, Staff believes the Commission should continue to consider ways to conserve numbers in Arizona.

IV. SELECTION OF A POOLING ADMINISTRATOR

53. NeuStar and Telcordia submitted a proposal and bid to serve as an Interim Thousands-Block PA in Arizona. In its response NeuStar indicated that its pooling administration services had expanded to encompass 12 States covering 35 individual NPAs. In its response Telcordia identified three states where it had been selected as pooling administrator. Subsequent to submission of their proposals, both companies have been selected as PA for additional State number pooling trials.

54. Both NeuStar and Telcordia have proven the experience and ability necessary to provide administration services pursuant to the Federal rules and Industry guidelines relating to thousands-block number pooling.

55. Recently, on June 18, 2001, the FCC announced that it had selected NeuStar as the National Thousands-Block Number Pooling Administrator. Where **[*26]** State pooling trials have been implemented, the National PA must develop and establish a transition plan for the transition/transfer of number pooling administration from the interim State PA to the National PA. (See Thousands-Block Pooling Contractor, Technical Requirements, Section 2.10.8, November 30, 2000)

56. On July 25, 2001, Telcordia notified Staff that it would no longer like to be considered as a potential bidder for the Arizona thousands-block pooling trial. Therefore, Staff recommends that NeuStar administer thousands-block number pooling ordered by the ACC.

V. SUMMARY OF STAFF RECOMMENDATIONS

57. Staff recommends that thousands-block number pooling be implemented in Arizona to conserve numbering resources as follows subject to the conditions identified below:

a. That thousands-block number pooling be implemented in the 602 NPA in the Phoenix MSA no later than February 14, 2002.
b. That thousands-block number pooling be implemented in the 480 NPA in the Phoenix MSA no later than March 14, 2002.
c. That implementation of number pooling may commence before the availability of NPAC software release 3.0.
d. That the cost allocation methodology for the Arizona pooling **[*27]** trials be based upon pro rata allocation of cost to all telecommunications carriers providing service within the State in proportion to each carrier's interstate, intrastate and international telecommunications revenues; irrespective of whether carriers may or may not participate in the pooling trial.
e. That joint-industry costs should be subject to a recovery mechanism and that carrier-specific costs be treated as a cost of doing business and should not be subject to a special cost recovery mechanism. CLECs and ILECs may seek recovery through their respective regulatory paradigms; i.e. tariff filings, rate cases or to the extent permitted under the terms of an AFOR plan. Recovery from access charges, unbundled network elements total service resale rate elements or any other wholesale rates should not be permitted.
f. That, if the ACC decides not to address cost recovery issues at this time, a State cost recovery mechanism be addressed in a future docket.
g. That rate center consolidation be implemented where multiple rate centers currently have the same local calling area and that such rate center consolidation become effective within twelve months of this Order. That carriers may **[*28]** submit comment within 30 days of the effective date of this Order identifying any concerns with the rate center consolidation set forth in Finding of Fact 46.
h. That any future rate case filed by incumbent wireline carriers include an analysis of where de minimis expansion of local calling areas would allow further consolidation of rate centers to maximize use of numbering resources.
i. That NeuStar be selected as the interim State Pooling Administrator to administer implementation of number pooling addressed in this Order.
j. That pursuant to Federal rules effective July 17, 2000, et al, all carriers be reminded they are required to have implemented and be in compliance with number conservation administration and reporting requirements.
k. That if any carrier providing service in one of the top 100 MSAs located in Arizona currently is not providing LNP capability as required by the FCC, such carrier must implement LNP in time to participate in numbering pooling for each MSA unless it applies for and is granted a LNP waiver by the FCC.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of this investigation.

2. The recitals of Fact set forth above **[*29]** and Conclusions of Law are supported by the record and are hereby adopted as Findings of Fact and Conclusions of Law.

3. The record in this proceeding supports adoption of thousands-block number pooling as a number conservation method and Staff Recommendations in Findings of Fact No. 57 are reasonable, fair, equitable and therefore in the public interest.

ORDER

IT IS THEREFORE ORDERED that thousands-block number pooling in the 602 NPA of the Phoenix MSA be implemented no later than February 14, 2002.

IT IS FURTHER ORDERED that thousands-block number pooling in the 480 NPA of the Phoenix MSA be implemented no later than March 14, 2002.

IT IS FURTHER ORDERED that all LNP capable carriers in the MSA and holding codes in the 602 and 480 NPAs shall participate in the number pool.

IT IS FURTHER ORDERED that NeuStar is selected as the interim State Pooling Administrator and shall administer implementation of thousands-block number pooling addressed in this Order.

IT IS FURTHER ORDERED that NAPM, LLC is hereby requested to enter into a contract with NeuStar for the administration of thousands-block number pooling addressed in this Order.

IT IS FURTHER ORDERED that NeuStar shall convene **[*30]** a First Implementation Meeting with Industry for thousands-block number pooling in the Phoenix MSA during September, 2001.

IT IS FURTHER ORDERED that Staff shall review any request from NeuStar to revise these implementation dates to resolve conflicts with implementation of other State pooling trials and, upon its concurrence with any change of schedule, Staff shall file a report with the ACC and Docket Control to provide notice of the revision.

IT IS FURTHER ORDERED that implementation of thousands-block number pooling shall not be delayed until the availability of NPAC software release 3.0.

IT IS FURTHER ORDERED that the cost allocation methodology for the Arizona pooling trials be based upon pro rata allocation of cost to all telecommunications carriers providing service within the State in proportion to each carrier's interstate, intrastate and international telecommunications revenues; irrespective of whether carriers may or may not participate in the pooling trial.

IT IS FURTHER ORDERED that joint-industry costs should be subject to a recovery mechanism and that carrier-specific costs are not recoverable by a special cost recovery mechanism since they are merely costs of doing **[*31]** business. That competitive local exchange carriers and incumbent local exchange carriers may seek recovery through their respective regulatory paradigms; i.e. tariff filings, rate cases or to the extent permitted under the terms of an alternative form of regulation plan.

IT IS FURTHER ORDERED that recovery from access charges, unbundled network elements total service resale rate elements or any other wholesale rates should not be permitted.

IT IS FURTHER ORDERED that rate center consolidation be implemented where multiple rate centers currently have the same local calling area and that such rate center consolidation become effective within twelve months of this Order. That carriers may submit comment within 30 days of the effective date of this Order identifying any concerns with the rate center consolidation set forth in Finding of Fact 46.

IT IS FURTHER ORDERED that within ninety days of this Order, the incumbent wireline carriers shall file with the Utilities Division Compliance Section a report identifying the rate centers to be consolidated and the scheduled effective date. Each carrier shall also file a final report with the Utilities Division Compliance Section within thirty **[*32]** days of completion of its rate center consolidation.

IT IS FURTHER ORDERED that any future rate case filed by incumbent wireline carriers include an analysis of where de minimis expansion of local calling areas would allow further consolidation of rate centers to maximize use of numbering resources.

IT IS FURTHER ORDERED that pursuant to Federal rules effective July 17, 2000, et al, all carriers are reminded they are required to have implemented and be in compliance with number

conservation administration and reporting requirements; for example, but not limited to, use of sequential number assignment and restrictions on unnecessary contamination of unused thousands-blocks.

IT IS FURTHER ORDERED that if any carrier providing service in one of the top 100 MSAs located in Arizona currently is not providing LNP capability as required by the FCC, such carrier must implement LNP in time to participate in thousands-block numbering pooling for each MSA unless it applies for and is granted a LNP waiver by the FCC.

IT IS FURTHER ORDERED that this Decision shall be effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

Source: Legal > States Legal - U.S. > Arizona > Agency & Administrative Materials > **AZ Corporation Commission Utilities Division Decisions**
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August 5, 2002

Mrs. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 001503-TP (Number Pooling Trials)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Petition for Cost Recovery, which we ask that you file in the above-referenced matter.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

James Meza III

James Meza III

cc: All Parties of Record
Marshall M. Criser III
Nancy B. White
R. Douglas Lackey

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CERTIFICATE OF SERVICE
Docket No. 001503-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

(*) Hand Delivery and Federal Express this 5th day of August, 2002 to the following:

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James Meza III
James Meza III (2d)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cost Recovery and Allocation of Issues for Number Pooling Trials in Florida	)	Docket No. 001503-TP
	)	Filed: August 5, 2002

BELLSOUTH TELECOMMUNICATIONS, INC.'S PETITION FOR COST RECOVERY

Pursuant to Rule 28-106.201, Florida Administrative Code, and Order of the Florida Public Service Commission, Order No. PSC-02-0466-PAA-TP issued April 5, 2002, BellSouth Telecommunications, Inc. ("BellSouth") files this Petition for Cost Recovery and states:

1. BellSouth Telecommunications, Inc. is an incumbent local exchange carrier ("ILEC"), lawfully doing business in the State of Florida.

2. On April 5, 2002, the The Florida Public Service Commission issued an Order, Order No. PSC-02-0466-PAA-TP, which authorizes carriers to file petitions with the Commission detailing the means by which the carrier can recover the costs associated with thousand block number pooling. In this Petition, BellSouth seeks to recover its carrier-specific costs as provided in the FPSC Order No. PSC-02-0466-TP.

3. BellSouth has participated in the number pooling trials on both a federal and state level, and has incurred costs associated with number pooling in Florida.

4. On April 26, 2002, BellSouth submitted to the FCC Transmittal No. 629, which contained BellSouth's cost study to support its proposal for cost recovery at the national level. This cost methodology was approved by the FCC on June 7, 2002.

5. BellSouth has employed the same methodology used in the FCC filing in preparing its cost recovery study for the pooling trials in Florida.

6. BellSouth's substantial interests will be affected by the Commission's action on this Petition because such decision will affect whether and how BellSouth will be allowed to recover carrier-specific costs associated with state thousands block pooling trials.

7. Specifically, BellSouth proposes to recover its carrier-specific costs under the methodology currently authorized and approved for recovering LNP costs. In accordance with the FPSC's Order of April 5, 2002, BellSouth will file a tariff upon approval of the cost recovery mechanism by this Commission. BellSouth's cost analysis and supporting documentation is attached to this Petition as Exhibit "A" and incorporated herein by reference.

8. As evidenced by the attached documentation, pooling results in a net cost increase, rather that a cost reduction. Further, the costs included in the attached calculation are direct and proximate results of the provision of thousands –block number pooling. In addition, BellSouth submits that the costs included in the calculation are "new" costs and are Florida-specific costs not related to national number pooling.

WHEREFORE, BellSouth respectfully requests that the Commission grant this petition and authorize recovery of BellSouth's carrier-specific costs pursuant to the methodology described herein, and to prescribe a reasonable time after approval for filing the necessary tariff(s).

Respectfully submitted, this 5th day of August, 2002.

BELLSOUTH TELECOMMUNICATIONS, INC.

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457562

Public
Exh A

REQUEST: Please provide all cost studies in your possession, custody or control related to state mandated pooling trials in Florida, and please provide all workpapers, memoranda, letters, e-mail, and other documents in your possession, custody or control related to each such cost study. This request includes, but is not limited to, all cost studies and tariffs you have filed or intend to file in response to Florida Public Service Commission order no. PSC-02-0466-PAA-TP issued April 5, 2002.

RESPONSE: See enclosed CDs for cost study and supporting documentation. This information is proprietary and is being provided subject to the provisions of the nondisclosure agreement executed by Citizen's.

RESPONSE PROVIDED BY:

Reginald Starks
Director
675 West Peachtree Street
Atlanta, Georgia 30375

REQUEST: Please provide each document in your possession, custody or control related to your tariff proposal transmittal no. 629 filed at the FCC. This request includes, but is not limited to, all cost studies and work papers underlying or related to the tariff proposal, as well as all memoranda, e-mail, letters and other documents in your possession, custody or control concerning the proposal, the reaction from officials or staff at the FCC, or the reaction from other entities.

RESPONSE: See enclosed CD provide in response to Item No. 1. This information is proprietary and is being provided subject to the provisions of the nondisclosure agreement executed by Citizen's.

RESPONSE PROVIDED BY:

Reginald Starks
Director
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Atlanta, Georgia 30375

PUBLIC

COST DEVELOPMENT

Introduction and Overview

The purpose of this cost study is to identify the costs associated with implementing Thousands Block Number Pooling (TNP) in Florida. Florida requested and received approval to conduct Number Pooling trials in advance of a national implementation schedule.

The major assumptions associated with the state study are:

1) Costs are associated with the following state ordered Number Plan Area (NPA) Number Pooling:
   - NPAs 954, 561, 904 & 305;
2) Costs included in this study were not included in the regional study;
3) Cost categories included consist of: Network Capital and Expenses (switch generic advancement & switch pooling feature software), Employee Related (switch translations, Network contract salaries & Block Administration Center salaries) and Number Portability Administration Center (NeuStar) Expenses.

The cost methodology used in this study is the total direct long run incremental costs plus a reasonable allocation of shared and common costs. The study recovers the costs incurred during the periods indicated below:

- 2000, 2001 and 2002

Present Value (PV) calculations are based on an 11.25% rate, which has been used in other FCC filings; such as BellSouth's Telephone Number Portability revised tariff filed dated June 11, 1999. Excel spreadsheets are used for all calculations.

Actual costs, based on TNP tracking reports, vendor agreements, and expense vouchers, are used for all years. The TNP cost components in this study are separately identified as capital and expense. These cost components are categorized as: 1) Network-related capital and expenses, 2) Miscellaneous Employee related expenses, and 3) Number Portability Administration Center (NPAC) expenses. Labor costs were calculated by multiplying work time in hours by the appropriate BellSouth regional directly assigned labor rate for the year the work was performed.

As stated earlier, this study contains the direct costs of implementing TNP. Thus, these costs would not have been incurred except for the implementation of TNP. Forward-looking, incremental account specific shared and common overhead costs are also considered. The account specific overhead costs are costs incurred to produce a family of products and are not direct costs of any member of the family. These costs include expenses such as Plant Operations Administration Expense, General Engineering Expenses, and Motor Vehicles. Common overhead costs include costs, which span the activities of the business, such as general and administrative, executive and planning,

accounting and financial, and legal. The methodology employed to develop the TNP account specific and common overhead cost factors is the same process used for unbundled network elements (UNEs). BellSouth, however, adjusted the UNE account specific and common overhead cost factors to exclude costs, such as product management and general-purpose computer hardware and software costs, that are identified as direct costs in the regional TNP cost study. The UNE account specific overhead factor for Digital Electronic Switching (377C) is 0.0163. The UNE common overhead factor is 0.0633. The TNP account specific overhead factor for Digital Electronic Switching is 0.0113. The TNP common overhead cost factor is 0.0442. The TNP specific factors are applied to the total direct costs to derive the forward-looking, incremental account specific and common overhead cost loadings.

Description of Cost Categories

Below are summaries of the various TNP cost categories. In the FCC's Numbering Resource Optimization (NRO) Report and Order and Further Notice of Proposed Rulemaking (NRO, First Report and Order) (FCC 00-104, Paragraph 216) released March 31, 2000, carriers were instructed to assign costs according to three categories: 1) shared industry costs, 2) carrier-specific costs directly related to Thousands Block Number Pooling, and 3) carrier-specific costs not directly related to Thousands Block Number Pooling. No costs are included in the study for category number three. BellSouth's share of the industry cost is included in this study and is listed as billing from NeuStar, the third party Pooling Administrator. The carrier-specific costs reflected in this study are network capital and expenses, employee related and other expenses. BellSouth utilized the same "but for" criteria specified in the Telephone Number Portability proceedings as referenced in the NRO First Report and Order (Paragraph 218), and as referenced in the NRO Third Report and Order (FCC 01-362, Paragraph 43), in order to identify the carrier specific costs directly related to Thousands Block Number Pooling. Under this "but for" test, costs are eligible for recovery only if they satisfy the following two requirements: 1) the costs would not have been incurred by the carrier "but for" the implementation of Thousands Block Number Pooling; and 2) the costs were incurred "for the provision of" Thousands Block Number Pooling. Further, the NRO First Report and Order (Paragraph 219) and the NRO Third Report and Order (Paragraph 43), require that in addition to the "but for" test, only new costs should be identified in the cost study as carrier-specific costs directly related to Thousands Block Number Pooling. BellSouth followed this third requirement in identifying Number Pooling costs.

Network Capital and Expense

The network related capital and expenses are identified as fully recoverable direct. The fully recoverable capital and expenses are included in their entirety in the study. The costs identified are only associated with the state pooling trials.

BellSouth routinely upgrades switch hardware (i.e., processors and communications modules) and base operation system software. In order to provide TNP, however, the timing of these upgrades was advanced in some offices. Since the generic upgrades

benefit the switch in general, only a portion of the costs associated with the advancement of the upgrades was considered as directly related to TNP.

Providing TNP requires BellSouth to install feature upgrades to its switches. This TNP feature software is used solely for the purpose of providing TNP and thus is directly related to the provisioning of TNP. TNP switch requirements include the need to denote an unallocated directory number or a range of directory numbers so that calls routed to these numbers will not receive error treatment.

Miscellaneous Employee Related

BellSouth has employees dedicated to projects required for the implementation of TNP for the state pooling trials. Thus, the labor costs associated with these projects are directly related to TNP. Provided below is a brief description of the various categories.

Translations - Labor to perform translations for the provision of TNP feature software in the central offices associated with the state pooling trials.

Block Administration Center (BAC) – Salaries for personnel to perform the following duties: Determine denotable blocks, complete service orders and subscription versions for contaminants, update internal systems at donation, complete and issue required reports to Pooling Administrator. These salaries included here are for the personnel working on the state pooling trials.

Network Infrastructure - Labor cost for the independent contractor dedicated to network infrastructure planning and implementation for the state pooling trials. This contractor is responsible for ensuring that all aspects of TNP, including network hardware and software upgrades, are properly designed and implemented.

Number Portability Administration Center

The NPAC, which NeuStar is the third party administrator, expenses included in the study are BellSouth's part of the shared industry costs. The 2002 expenses are based on billing in association with the state trials.

DESCRIPTION OF ATTACHMENTS AND WORKPAPERS

Following is a description of each of the attachments and workpapers contained in this study.

Summary of TNP Cost Study Results: This workpaper lists the Present Value (4/1/2002) of costs by Field Reporting Code (FRC).

Factors – Capital: This workpaper contains factors, loadings and miscellaneous inputs associated with the capital related inputs.

Factors – Expense: This workpaper contains the cost of money and years to advance used with expense inputs.

Input Summary: This workpaper categorizes and summarizes the Vendor Inputs to the FRCs being studied.

WP Capital: This workpaper shows the calculations for the advancement cost of switch generics and development of the costs for capital related items by FRC.

WP Expense: This workpaper shows the calculations to provide the expenses associated with Number Pooling.

Other Labor Costs: This workpaper calculates the costs associated with the translations provisioned in each type switch, the contract Network management of the Number Pooling efforts, and the employees at the BAC.

Vendor - Inputs: This workpaper provides the inputs from the various vendors involved in the provisioning of Number Pooling.

SSP Deployment: This workpaper provides the capital associated with each central office for the implementation of Number Pooling.

COST CALCULATIONS

There are three basic calculations performed: 1) Network Capital (377C), 2) Network RTU (560C) and 3) Expenses.

The inputs associated with Network Capital (377C) are vendor engineered, furnished, and installed prices. These vendor prices are first brought up to investment level by multiplying by the associated 377C Telco factor. The Telco factor captures BellSouth engineering and installation costs and sales tax. Next, the investments (377C) are converted to annual cost. This is accomplished by multiplying the investments by their associated Depreciation, Cost of Money, Plant Specific (Maintenance), and Ad Valorem Tax annual cost factors. The annual costs over the equipment's economic life are present valued to the year it was placed. This cost is then used as the basis of the calculation of the cost of advancement. The advancement cost is then multiplied by the 377C shared cost factor, the common cost factor, and the percentage of the advancement attributable to TNP to provide the total cost of advancement. The advancement cost for the various years are present valued to April 1, 2002.

Network RTU – SOFTCAP 3 (560C) does not require any loadings and is multiplied by the annual cost factors for the associated FRC account. Also as described previously, annual costs over the category's economic life are present valued to produce a total for each year that RTU fees were paid. RTU fees do not have shared costs, only common cost factors were applied to the annual costs. The total cost plus incremental common

costs are either future or present valued to produce a total for the category as of April 1, 2002.

Expenses plus common costs for each year in the study are future or present valued to April 1, 2002.

Network Capital and Expenses

In order to implement TNP, certain switch generics (FRC 377C) were required sooner than the planned implementation dates. For example some switch generics were required two years sooner than the originally planned date (before Number Pooling). To determine the cost penalty associated with this advancement, the difference between two cost streams was calculated. The present value of annual cost of the generic was calculated for the year the generic was implemented. Then the costs were present valued two years as if it occurred two years earlier. This costs was then subtracted from the costs for the generic when it was actually implemented. The difference is the cost of advancement.

The percentage of the advancement costs attributable to TNP was determined by dividing the pooling software costs by the generic costs plus software costs.

Miscellaneous Employee Related

The BellSouth directly assigned labor rates are multiplied by the hours by Job Grade or Wage Scale to determine the labor cost for the year indicated. Also, contract labor costs were summed for the year indicated to determine the costs for those employees. The contract labor and the BAC expenses are calculated on a total trial basis and are then allocated to the states utilizing the ratio of access lines in the trial switches by state to the total number of access lines in the three state trial switches. Once the labor costs were determined, they were included with the expense costs calculation.

Translations – The hours to perform the translations by switch type were multiplied by the number of switches for each type to determine the total labor hours for this category.

BAC - The BAC salaries included only those employees in the center dedicated to the state pooling trials.

Network Infrastructure – This category identifies the Infrastructure Planning contract labor costs.

	A	B	C	D	E	F	G	H	I	J	K
1	Florida										
2	Index Sheet										
3	Study Period 2002-2004										
4											
5											
6			**Sheet Name:**		**Description:**						
7			Index		Thousands Block Number Pooling						
8			Sum of TNP Cost Study Results		Summary of TNP Cost Study Results						
9			Factors - Capital		Factors - Capital						
10			Factors - Expense		Factors - Expense						
11			Input Summary		Input Summary by Account						
12			WP Capital		Capital Cost Calculations						
13			WP Expense		Expense Calculations						
14			Savings		Savings						
15			Other Labor Costs		Other Labor Costs						
16			Vendor Inputs		Vendor Input Summary						
17			SSP_Deployment		SSP Costs Summary						
18											
19											
20											
21											
22											
23											
24											
25											

	A	B	C
1	Florida		
2	Summary of TNP Cost Study Results		
3	Study Period: 2002-2004		
4			
5			
6			
7	Item/Description	Source	Total
8			
9	NP Advancement of Switch Generic	WP Capital L231	$180,035
10			
11	560C NP SoftCap3	WP Capital L255	$3,021,141
12			
13	NP Expenses	WP Expense L23	$722,658
14			
15			
16	Savings	WP Savings L57	$416,990
17			
18			
19			
20			
21	TOTAL NP Costs - PV	L9 + L11 + L13 - L16	$3,506,844
22			
23			

	A	B	C	D	E
1	Florida				
2	Factors - Capital				
3	Study Period 2002-2004				
4					
5					
6				Amount	
7	Description	FRC		2000	2001
8					
9					
10					
11	Economic Life for 377C Capital	377C	Cost Matters	10	
12					
13	Depreciation Factor for 377C Capital		Cost Matters	0 097622	0 097622
14	Cost of Money Factor for 377C Capital		Cost Matters	0 051394	0 051394
15	Income Tax Factor for 377C Capital		Cost Matters	0 023892	0 023892
16	Plant Specific Factor for 377C Capital		Cost Matters	0 017533	0 017533
17	Ad Valorem Factor for 377C Capital		Cost Matters	0 007421	0 007421
18					
19	Percent of Advancement of 377C attributable to TNP		Infrastructure Planning	31 10%	
20					
21					
22	COM for Advancement		Cost Matters	11 25%	11 25%
23	Years of Advancement (Switch Generic) 24 Months		Cost Matters	2	2
24	Years of Advancement (Switch Generic) 18 Months		Cost Matters	1 5	1 5
25	Years of Advancement (Switch Generic) 14 Months		Cost Matters	1 17	1 17
26	Years of Advancement (Switch Generic) 11 Months		Cost Matters	0 92	0 92
27	Years of Advancement (Switch Generic) 9 Months		Cost Matters	0 75	0 75
28	Number of Years to Value at 04/01/02		Cost Matters	1 75	0 75
29					
30					
31					
32	Economic Life for SoftCap3	560C	Cost Matters	3	
33					
34	Depreciation Factor for 560C Capital SoftCap3		Cost Matters	0 333333	0 333333
35	Cost of Money Factor for 560C Capital SoftCap3		Cost Matters	0 052514	0 052514
36	Income Tax Factor for 560C Capital SoftCap3		Cost Matters	0 024412	0 024412
37	Ad Valorem Factor for 560C Capital SoftCap3		Cost Matters	0 007421	0 007421
38					
39	Gross Receipt Tax Factor		Cost Matters	0 014633	0 014633
40	Incremental Overhead Factor		Cost Matters	0 0442	0 0442
41	Account Specific Incremental Overhead Factor for 377C		Cost Matters	0 011332	0 011332
42					

	A	B	C	D	E	F
1	Florida					
2	Factors - Expense					
3	Study Period: 2002-2004					
4						
5						
6				Amount		
7	Description	FRC	Source	2000	2001	2002
8						
9	COM for Advancement		Cost Matters	11.25%	11.25%	11.25%
10						
11	Gross Receipt Tax Factor		Cost Matters	0.014633	0.014633	0.014633
12	Incremental Overhead Factor		Cost Matters	0.0442	0.0442	0 0442
13						
14	Number of Years to Value at 04/01/02			1.75	0 75	0 167
15						
16	Labor Rates	WS32	Cost Matters	$32.14	$29.33	
17		WS20	Cost Matters	$24.60	$25.39	
18		JG59	Cost Matters	$52.71	$51 92	
19		JG58	Cost Matters	$45.46	$43.57	
20		JG57	Cost Matters	$39.15	$37.15	

	A	B	C	D	E	F
1	Florida					
2	Input Summary by Account					
3	Study Period: 2002-2004					
4						
5						
6				Amount		
7	Description	FRC	Source	2000	2001	2002
8	377C Capital - Switch Generic - 24 Months Pull Up	377C	Vendor Inputs L4	$13,600		
9	377C Capital - Switch Generic - 18 Months Pull Up	377C	Vendor Inputs L6	$1,684,700		
10	377C Capital - Switch Generic - 14 Months Pull Up	377C	Vendor Inputs L7		$808,600	
11	377C Capital - Switch Generic - 11 Months Pull Up	377C	Vendor Inputs L8		$90,300	
12	377C Capital - Switch Generic - 9 Months Pull Up	377C	Vendor Inputs L9		$642,500	
13						
14						
15	SoftCap3	560C	Vendor Inputs L20 thru L26	$1,024,600	$1,450,400	
16						
17						
18	Expense		Vendor Inputs L58+L62+L69+L70	$3,335	$521,614	$115,066
19						
20						
21	Grand Total		Sum L8 : L18	$2,726,235	$3,513,414	$115,066
22						

	A	B	C	D	E	F
1	Florida					
2	Capital Cost Calculations					
3	Study Period 2002-2004					
4						
5						
6						
7	Description	FRC	Source	2000	2001	TOTAL
8	Account Specific Incremental Overhead Factor for 377C	377C	Factors - Capital, L41	0 011332	0 011332	
9	Depreciation Factor for 377C Capital	377C	Factors - Capital, L13	0 097622	0 097622	
10	Cost of Money Factor for 377C Capital	377C	Factors - Capital, L14	0 051394	0 051394	
11	Income Tax Factor for 377C Capital	377C	Factors - Capital, L15	0 023892	0 023892	
12	Plant Specific Factor for 377C Capital	377C	Factors - Capital, L16	0 017533	0 017533	
13	Ad Valorem Factor for 377C Capital	377C	Factors - Capital, L17	0 007421	0 007421	
14						
15	Percent of Advancement of 377C attributable to TNP		Factors - Capital, L19	31 10%		
16						
17	Depreciation Factor for 560C Capital SoftCap3	560C	Factors - Capital, L34	0 333333	0 333333	
18	Cost of Money Factor for 560C Capital SoftCap3	560C	Factors - Capital, L35	0 052514	0 052514	
19	Income Tax Factor for 560C Capital SoftCap3	560C	Factors - Capital, L36	0 024412	0 024412	
20	Ad Valorem Factor for 560C Capital SoftCap3	560C	Factors - Capital, L37	0 007421	0 007421	
21						
22	Economic Life for 377C Capital	377C	Factors - Capital, L11	10		
23	Economic Life for SoftCap3	560C	Factors - Capital, L32	3		
24	Gross Receipt Tax Factor		Factors - Capital, L39	0 014633	0 014633	
25	Cost of Money		Factors - Capital, L22	0 1125	0 1125	
26	Incremental Overhead Factor		Factors - Capital, L40	0 0442	0 0442	
27	Number of Years to value at 4/01/02		Factors - Capital, L28	1 75	0 75	
28	Present Value COM		Factors - Capital, L22	0 1125	0 1125	

	A	B	C	D	E	F
1	Florida					
2	Capital Cost Calculations					
3	Study Period 2002-2004					
4						
5						
6						
7	Description	FRC	Source	2000	2001	TOTAL
29						
30	377C Capital - Switch Generic - 24 Months Pull Up	377C	Input Summary L8	$13,600 00	$0 00	$13 600 00
31						
32	Depreciation for 377C Switch Generic	377C	L30 X L9	$1,327 66	$0 00	$1,327 66
33						
34	Cost of Money for 377C Switch Generic	377C	L30 X L10	$698 96	$0 00	$698 96
35						
36	Income Tax for 377C Switch Generic	377C	L30 X L11	$324 93	$0 00	$324 93
37						
38	Plant Specific for 377C Switch Generic	377C	L30 X L12	$238 45	$0 00	$238 45
39						
40	Ad Valorem for 377C Switch Generic	377C	L30 X L13	$100 93	$0 00	$100 93
41						
42	Present Value of Current Year					
43						
44	Depreciation for 377C Switch Generic	377C	PV(L25,L22,L32)	$7,737 60	$0 00	$7 737 60
45						
46	Cost of Money for 377C Switch Generic	377C	PV(L25,L22,L34)	$4,073 53	$0 00	$4 073 53
47						
48	Income Tax for 377C Switch Generic	377C	PV(L25,L22,L36)	$1,893 70	$0 00	$1 893 70
49						
50	Plant Specific for 377C Switch Generic	377C	PV(L25,L22,L38)	$1,389 68	$0 00	$1,389 68
51						
52	Ad Valorem for 377C Switch Generic	377C	PV(L25,L22,L40)	$588 19	$0 00	$588 19
53						
54	Sum PV 377C Switch Generic Current Year		Sum (L44, L46, L48, L50, L52)	$15,682 71	$0 00	$15,682 71
55						
56	COM for Advancement		Factors - Capital, L22	0 1125	0 1125	
57	Years of Advancement (Switch Generic) 24 Months		Factors - Capital, L23	2 000	2 000	
58						
59						
60	PV Advancement Cost for 377C Switch Generic	377C	PV L54 @ L56 and L57	$12,671 29	$0 00	$12 671 29
61						
62	Cost of Advancement for 377C Switch Generic	377C	L54 - L60	$3,011 41	$0 00	$3 011 41
63						
64	Cost of Advancement for 377C Switch Generic w Incremental Overhead & GRT	377C	(((L62 X (1+ L8)) X (1+ (L24)) X (1+L26))	$3,226 69	$0 00	$3,226 69
65						
66	PV of Cost of Advancement 377C Switch Generic at 4/01/02 for all Years		FV or PV L64 @ L28 and L27	$3,888 50	$0 00	$3 888 50
67						
68	Sum PV of Cost of Advancement 24 Months 377C Switch Generic at 4/01/02 for all Years		Total L66 X L15	$1,209 32		

	A	B	C	D	E	F
1	Florida					
2	Capital Cost Calculations					
3	Study Period 2002-2004					
4						
5						
6						
7	Description	FRC	Source	2000	2001	TOTAL
69						
70	377C Capital - Switch Generic - 18 Months Pull Up	377C	Input Summary L9	$1,684,700 00	$0 00	$1 684 700 00
71						
72	Depreciation for 377C Switch Generic	377C	L70 X L9	$164 463 78	$0 00	$164 463 78
73						
74	Cost of Money for 377C Switch Generic	377C	L70 X L10	$86,583 47	$0 00	$86 583 47
75						
76	Income Tax for 377C Switch Generic	377C	L70 X L11	$40,250 85	$0 00	$40 250 85
77						
78	Plant Specific for 377C Switch Generic	377C	L70 X L12	$29,537 85	$0 00	$29,537 85
79						
80	Ad Valorem for 377C Switch Generic	377C	L70 X L13	$12,502 16	$0 00	$12,502 16
81						
82	**Present Value of Current Year**					
83						
84	Depreciation for 377C Switch Generic	377C	PV(L25,L22,L72)	$958,495 26	$0 00	$958,495 26
85						
86	Cost of Money for 377C Switch Generic	377C	PV(L25,L22,L74)	$504,608 65	$0 00	$504,608 65
87						
88	Income Tax for 377C Switch Generic	377C	PV(L25,L22,L76)	$234,582 05	$0 00	$234 582 05
89						
90	Plant Specific for 377C Switch Generic	377C	PV(L25,L22,L78)	$172,146 62	$0 00	$172,146 62
91						
92	Ad Valorem for 377C Switch Generic	377C	PV(L25,L22,L80)	$72,862 61	$0 00	$72 862 61
93						
94	Sum PV 377C Switch Generic Current Year		Sum (L84, L86, L88, L90, L92)	$1,942,695 18	$0 00	$1 942,695 18
95						
96	COM for Advancement		Factors - Capital, L22	11 25%	11 25%	
97	Years of Advancement (Switch Generic) 18 Months		Factors - Capital, L24	1 500	1 500	
98						
99						
100	PV Advancement Cost for 377C Switch Generic	377C	PV L94 @ L96 and L97	$1,655,597 01	$0 00	$1,655,597 01
101						
102	Cost of Advancement for 377C Switch Generic	377C	L94 - L100	$287 098 17	$0 00	$287,098 17
103						
104	Cost of Advancement for 377C Switch Generic w Incremental Overhead & GRT	377C	(((L102 X (1+ L8)) X (1+ L24)) X (1+L26))	$307,621 61	$0 00	$307 621 61
105						
106	PV of Cost of Advancement 377C Switch Generic at 4/01/02 for all Years		FV or PV L104 @ L28 and L27	$370,716 47	$0 00	$370 716 47
107						
108	**Sum PV of Cost of Advancement 18 Months 377C Switch Generic at 4/01/02 for all Years**		**Total L106 X L15**	**$115,292 82**		

	A	B	C	D	E	F
1	Florida					
2	Capital Cost Calculations					
3	Study Period 2002-2004					
4						
5						
6						
7	Description	FRC	Source	2000	2001	TOTAL
109						
110	377C Capital - Switch Generic - 14 Months Pull Up	377C	Input Summary L10	$0 00	$808 600 00	$808 600 00
111						
112	Depreciation for 377C Switch Generic	377C	L110 X L9	$0 00	$78 937 15	$78,937 15
113						
114	Cost of Money for 377C Switch Generic	377C	L110 X L10	$0 00	$41,557 19	$41,557 19
115						
116	Income Tax for 377C Switch Generic	377C	L110 X L11	$0 00	$19,319 07	$19,319 07
117						
118	Plant Specific for 377C Switch Generic	377C	L110 X L12	$0 00	$14,177 18	$14,177 18
119						
120	Ad Valorem for 377C Switch Generic	377C	L110 X L13	$0 00	$6,000 62	$6,000 62
121						
122	**Present Value of Current Year**					
123						
124	Depreciation for 377C Switch Generic	377C	PV(L25,L22,L112)	$0 00	$460 045 86	$460 045 86
125						
126	Cost of Money for 377C Switch Generic	377C	PV(L25,L22,L114)	$0 00	$242,195 38	$242 195 38
127						
128	Income Tax for 377C Switch Generic	377C	PV(L25,L22,L116)	$0 00	$112,591 59	$112 591 59
129						
130	Plant Specific for 377C Switch Generic	377C	PV(L25,L22,L118)	$0 00	$82,624 66	$82,624 66
131						
132	Ad Valorem for 377C Switch Generic	377C	PV(L25,L22,L120)	$0 00	$34,971 63	$34 971 63
133						
134	Sum PV 377C Switch Generic Current Year		Sum (L124, L126, L128, L130, L132)	$0 00	$932,429 11	$932,429 11
135						
136	COM for Advancement		Factors - Capital, L22	11 25%	11 25%	
137	Years of Advancement (Switch Generic) 14 Months		Factors - Capital, L25	1 170	1 170	
138						
139						
140	PV Advancement Cost for 377C Switch Generic	377C	PV L134 @ L136 and L137	$0 00	$823,085 22	$823 085 22
141						
142	Cost of Advancement for 377C Switch Generic	377C	L134 - L140	$0 00	$109,343 90	$109 343 90
143						
144	Cost of Advancement for 377C Switch Generic w Incremental Overhead & GRT	377C	(((L142 X (1+ L8)) X (1+ L24)) X (1+L26))	$0 00	$117,160 43	$117 160 43
145						
146	PV of Cost of Advancement 377C Switch Generic at 4/01/02 for all Years		FV or PV L144 @ L28 and L27	$0 00	$126,912 96	$126 912 96
147						
148	**Sum PV of Cost of Advancement 14 Months 377C Switch Generic at 4/01/02 for all Years**		**Total L146 X L15**	**$39,469 93**		

	A	B	C	D	E	F
1	Florida					
2	Capital Cost Calculations					
3	Study Period 2002-2004					
4						
5						
6						
7	Description	FRC	Source	2000	2001	TOTAL
149						
150	377C Capital - Switch Generic - 11 Months Pull Up	377C	Input Summary L11	$0 00	$90 300 00	$90,300 00
151						
152	Depreciation for 377C Switch Generic	377C	L150 X L9	$0 00	$8 815 27	$8,815 27
153						
154	Cost of Money for 377C Switch Generic	377C	L150 X L10	$0 00	$4,640 88	$4 640 88
155						
156	Income Tax for 377C Switch Generic	377C	L150 X L11	$0 00	$2,157 45	$2 157 45
157						
158	Plant Specific for 377C Switch Generic	377C	L150 X L12	$0 00	$1,583 23	$1 583 23
159						
160	Ad Valorem for 377C Switch Generic	377C	L150 X L13	$0 00	$670 12	$670 12
161						
162	**Present Value of Current Year**					
163						
164	Depreciation for 377C Switch Generic	377C	PV(L25,L22,L152)	$0 00	$51 375 39	$51 375 39
165						
166	Cost of Money for 377C Switch Generic	377C	PV(L25,L22,L154)	$0 00	$27 047 05	$27 047 05
167						
168	Income Tax for 377C Switch Generic	377C	PV(L25,L22,L156)	$0 00	$12 573 61	$12,573 61
169						
170	Plant Specific for 377C Switch Generic	377C	PV(L25,L22,L158)	$0 00	$9,227 07	$9 227 07
171						
172	Ad Valorem for 377C Switch Generic	377C	PV(L25,L22,L160)	$0 00	$3 905 44	$3,905 44
173						
174	Sum PV 377C Switch Generic Current Year		Sum (L164, L166, L168, L170, L172)	$0 00	$104,128 55	$104,128 55
175						
176	COM for Advancement		Factors - Capital, L22	11 25%	11 25%	
177	Years of Advancement (Switch Generic) 11 Months		Factors - Capital, L26	0 920	0 920	
178						
179						
180	PV Advancement Cost for 377C Switch Generic	377C	PV L174 @ L176 and L177	$0 00	$94,400 40	$94 400 40
181						
182	Cost of Advancement for 377C Switch Generic	377C	L174 - L180	$0 00	$9,728 16	$9,728 16
183						
184	Cost of Advancement for 377C Switch Generic w Incremental Overhead & GRT	377C	(((L182 X (1+ L8)) X (1+ L24)) X (1+L26))	$0 00	$10 423 58	$10 423 58
185						
186	PV of Cost of Advancement 377C Switch Generic at 4/01/02 for all Years		FV or PV L184 @ L28 and L27	$0 00	$11,291 25	$11 291 25
187						
188	**Sum PV of Cost of Advancement 11 Months 377C Switch Generic at 4/01/02 for all Years**		**Total L186 X L15**	**$3,511 58**		

	A	B	C	D	E	F
1	Florida					
2	Capital Cost Calculations					
3	Study Period: 2002-2004					
4						
5						
6						
7	Description	FRC	Source	2000	2001	TOTAL
189						
190	377C Capital - Switch Generic - 9 Months Pull Up	377C	Input Summary L12	$0 00	$642,500 00	$642,500 00
191						
192	Depreciation for 377C Switch Generic	377C	L190 X L9	$0 00	$62,722 14	$62,722 14
193						
194	Cost of Money for 377C Switch Generic	377C	L190 X L10	$0 00	$33,020 65	$33,020 65
195						
196	Income Tax for 377C Switch Generic	377C	L190 X L11	$0 00	$15 350 61	$15,350 61
197						
198	Plant Specific for 377C Switch Generic	377C	L190 X L12	$0 00	$11,264 95	$11,264 95
199						
200	Ad Valorem for 377C Switch Generic	377C	L190 X L13	$0 00	$4,767 99	$4,767 99
201						
202	**Present Value of Current Year**					
203						
204	Depreciation for 377C Switch Generic	377C	PV(L25,L22,L192)	$0 00	$365,544 73	$365,544 73
205						
206	Cost of Money for 377C Switch Generic	377C	PV(L25,L22,L194)	$0 00	$192 444 39	$192,444 39
207						
208	Income Tax for 377C Switch Generic	377C	PV(L25,L22,L196)	$0 00	$89 463 39	$89,463 39
209						
210	Plant Specific for 377C Switch Generic	377C	PV(L25,L22,L198)	$0 00	$65 652 17	$65,652 17
211						
212	Ad Valorem for 377C Switch Generic	377C	PV(L25,L22,L200)	$0 00	7 87	$27 787 87
213						
214	Sum PV 377C Switch Generic Current Year		Sum (L204, L206, L208, L210, L212)	$0 00	$740,892 53	$740 892 53
215						
216	COM for Advancement		Factors - Capital, L22	11 25%	11 25%	
217	Years of Advancement (Switch Generic) 9 Months		Factors - Capital, L27	0 750	0 750	
218						
219						
220	PV Advancement Cost for 377C Switch Generic	377C	PV L214 @ L216 and L217	$0 00	$683,959 21	$683,959 21
221						
222	Cost of Advancement for 377C Switch Generic	377C	L214 - L220	$0 00	$56 933 32	$56 933 32
223						
224	Cost of Advancement for 377C Switch Generic w Incremental Overhead & GRT	377C	(((L222 X (1+ L8)) X (1+ L24)) X (1+L26))	$0 00	$61 003 25	$61,003 25
225						
226	PV of Cost of Advancement 377C Switch Generic at 4/01/02 for all Years		FV or PV L224 @ L28 and L27	$0 00	$66,081 21	$66 081 21
227						
228	**Sum PV of Cost of Advancement 9 Months 377C Switch Generic at 4/01/02 for all Years**		**Total L226 X L15**	**$20,551 25**		
229						
230						
231	**Total PV of Cost of Advancement 377C Switch Generic at 4/01/02 for all Years**		**L68 + L108 + L148 + L188 + L228**	**$180,034 91**		
232						

	A	B	C	D	E	F
1	Florida					
2	Capital Cost Calculations					
3	Study Period: 2002-2004					
4						
5						
6						
7	Description	FRC	Source	2000	2001	TOTAL
233						
234						
235	SoftCap3	560C	Input Summary L15	$1,024,600 00	$1,450,400 00	$2,475,000 00
236						
237	Depreciation for 560C SoftCap3	560C	L235 X L17	$341,532 99	$483,466 18	$824,999 18
238	Cost of Money for 560C SoftCap3	560C	L235 X L18	$53,805 84	$76 166 31	$129 972 15
239	Income Tax for 560C SoftCap3	560C	L235 X L19	$25,012 54	$35 407 16	$60 419 70
240	Ad Valorem for 560C SoftCap3	560C	L235 X L20	$7,603 56	$10,763 42	$18,366 98
241						
242	**Present Value of Current Year**					
243						
244	Depreciation for 560C SoftCap3	560C	PV(L28,L23,L237)	$830,993 58	$1,176,335 24	$2,007 328 81
245	Cost of Money for 560C SoftCap3	560C	PV(L28,L23,L238)	$130,916 52	$185,322 39	$316,238 91
246	Income Tax for 560C SoftCap3	560C	PV(L28,L23,L239)	$60 858 71	$86,150 17	$147 008 88
247	Ad Valorem for 560C SoftCap3	560C	PV(L28,L23,L240)	$18,500 43	$26,188 78	$44 689 21
248						
249	Sum PV 560C for Current Year		Sum (L244 L247)	$1,041,269 23	$1 473 996 58	$2,515,265 81
250						
251	Sum PV 560C for Current Year w Incremental Overhead & GRT	560C	((L249 X (1+ L24)) X (1+L26))	$1,103,203 69	$1 561 669 57	$2 664,873 26
252						
253	PV of 560C at 4/01/02 for all Years		FV or PV L251 @ L28 and L27	$1,329,476 74	$1,691,664 21	$3,021,140 95
254						
255	**Total Cost SoftCap3 for NP**		**Total L253**	**$3,021,140 95**		

	A	B	C	D	E	F	G
1	Florida						
2	Expense Calculations						
3	Study Period: 2002-2004						
4							
5							
6				Amount			
7	Description		Source	2000	2001	2002	TOTAL
8							
9	Expense		Input Summary L18	$3,334.53	$521,614.27	$115,066 00	$6 .0,(14 [illegible]
10							
11	Present Value COM		Factors - Expense L9	11.25%	11.25%	11.25%	
12							
13	Number of Years to value at 4/01/02		Factors - Expense L14	1.75	0 75	0 167	
14	Gross Receipt Tax Factor		Factors - Expense L11	0 014633	0 014633	0.014633	
15	Incremental Overhead Factor		Factors - Expense L12	0 0442	0 0442	0 0442	
16	Total Expense with GRT		L9*(1+L14)	$3,383.32	$529,247 05	$116,749 76	$649,380 13
17							
18	Total Expense w Incremental Overhead		L9 + (L9 X L15)	$3,532.86	$552,639.77	$121,910 10	$678,082 74
19							
20							
21	Value of Expense at 4/01/02		FV or PV L18 @ L11 and L13	$4,257.47	$598,641.96	$119,758 84	$722,658 27
22							
23	**Sum PV of all Years for Expense**		**Total L21**	**$722,658.27**			
24							
25							

	A	B	C	D	E	F	G	H	I	J	K	L	M
1	Florida												
2	Savings												
3	Study Period 2002-2004												
4													
5													
6													
7									Amount				
8	Description	Source	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
9													
10	NPA Relief for 561 without NP (2nd Qtr)	FL_Savings_Invst3 Summary L17		$ -	$ -	$ -	$ 2,396,532 66	$ -	$ -	$ -			
11													
12													
13													
14													
15													
16													
17													
18	NPA Relief for 561 with NP (2nd Qtr)	FL_Savings_Invst3 Summary L17	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 2,396,532 66	$ -	$ -	$
19													
20													
21													
22													
23													
24													
25													
26	Number of Years to value at 4/01/02	1st Quarter	0 25	1 00	2 00	3 00	4 00	5 00	6 00	7 00	8 00	9 00	10 00
27	Number of Years to value at 4/01/02	2nd Quarter	0 25	1 25	2 25	3 25	4 25	5 25	6 25	7 25	8 25	9 25	10 25
28	Number of Years to value at 4/01/02	3rd Quarter	0 50	1 50	2 50	3 50	4 50	5 50	6 50	7 50	8 50	9 50	10 50
29	Number of Years to value at 4/01/02	4th Quarter	0 75	1 75	2 75	3 75	4 75	5 75	6 75	7 75	8 75	9 75	10 75
30													
31													
32	PV of NPA Relief for 561 without NP	PV L10	$ -	$ -	$ -	$ -	$ 1,523,380 07	$ -	$ -	$ -	$ -	$	$
33													
34													
35													
36													
37													
38													
39													
40	PV of NPA Relief for 561 with NP	PV L32	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 1 106,389 92	$ -	$ -	$
41													
42													
43													
44													
45													
46													
47													
48													
49	NPA Relief for 561 difference	Difference Between L32 & L40	$ 416,990 15										
50													
51													
52													
53													
54													
55													
56													
57	**Total Savings of Pooling Deferral**	**L49**	**$ 416,990 15**										

	A	B	C	D
1	Florida			
2	Other Labor Costs			
3	Study Period 2002-2004			
4				
5		Source		
6	Translation Labor			
7				
8	Switch Translations Cost for Pooling Software		Hrs	
9	5ESS	Infrastructure Planning	6	
10	DMS	Infrastructure Planning	0 25	
11	EWSD	Infrastructure Planning	0	
12				
13				
14	No Switch Types		2000	2001
15	5ESS	Infrastructure Planning	17	15
16	DMS	Infrastructure Planning	7	16
17	EWSD	Infrastructure Planning	2	3
18				
19				
20	Hours for Year	(L9 x L15)+(L10 x L16)+(L11 x L17)	103 75	94 00
21				
22				
23				
24				
25				
26	WS32 Labor Rate	Factor Expense L16	$32 14	$29 33
27				
28				
29	Total Switch Translations Costs	L26 x L20	$3,334 53	$2 757 02
30				
31				
32	BAC Salaries			
33				
34	Hrs/Year		1 928	
35				
36			2000	2001
37	Number of Employees			
38	JG59	BAC Center	0	0
39	JG58	BAC Center	0	1
40	JG57	BAC Center	0	1 5
41	WS20	BAC Center	0	15
42				
43				
44	Labor Rate			
45	JG59	Factor - Expense L18	$52 71	$51 92
46	JG58	Factor Expense L19	$45 46	$43 57
47	JG57	Factor - Expense L20	$39 15	$37 15
48	WS20	Factor - Expense L17	$24 60	$25 39
49				
50				
51	Salaries			
52	JG59	L34 X L38 X L45	$0 00	$0 00
53	JG58	L34 X L39 X L46	$0 00	$84 002 96
54	JG57	L34 X L40 X L47	$0 00	$107 437 80
55	WS20	L34 X L41 X L48	$0 00	$734 278 80
56				
57				
58	Total BAC Salary	Sum L52 L55	$0 00	$925 719 56
59				
60				
61				
62				
63	Florida Allocation %	Cost Matters	49 76%	49 76%
64				
65	Florida Allocation of BAC Salary	L58 X L63	$0 00	$460,638 05
66				
67				
68				
69	Contract Employee Network Salary	Infrastructure Planning	$0	$117 000
70				
71	Florida Allocation of Network Contract Employee Salary	L69 X L63	$0 00	$58,219 20

	A	B	C	D	E	F	G
1	Florida	Source	FRC	Number Pooling			
2				2000	2001	2002	Total
3	Study Period 2002-2004						
4	SSP Hardware Upgrades - 24 Month Advancement	SSP_Deployment Ln 98 Col G	377C	$ 13 600	$ -		$ 13 600
5	SSP Hardware Upgrades - 20 Month Advancement	SSP_Deployment Ln 100 Col G	377C	$ -	$ -		$ -
6	SSP Hardware Upgrades - 18 Month Advancement	SSP_Deployment Ln 97 Col G	377C	$ 1 684 700	$ -		$ 1 684 700
7	SSP Hardware Upgrades - 14 Month Advancement	SSP_Deployment Ln 101 Col G	377C	$ -	$ 808 600		$ 808 600
8	SSP Hardware Upgrades - 11 Month Advancement	SSP_Deployment Ln 102 Col G	377C	$ -	$ 90 300		$ 90 300
9	SSP Hardware Upgrades - 9 Month Advancement	SSP_Deployment Ln 103 Col G	377C	$ -	$ 642 500		$ 642 500
10	SSP Hardware Upgrades - 0 Month Advancement	SSP_Deployment Ln 99 & Ln 104 Col G	377C	$ -	$ -		$ -
11							
12	[redacted]						
13							
14	[redacted]						
15							
16							$ -
17							
18	[redacted]						
19							
20	SSP Feature Package - 24 Month Advancement	SSP_Deployment Ln 98 Col H	560C	$ 83 400	$ -		$ 83 400
21	SSP Feature Package - 20 Month Advancement	SSP_Deployment Ln 100 Col H	560C	$ -	$ 390 200		$ 390 200
22	SSP Feature Package - 18 Month Advancement	SSP_Deployment Ln 97 Col H	560C	$ 459 000	$ -		$ 459 000
23	SSP Feature Package - 14 Month Advancement	SSP_Deployment Ln 101 Col H	560C	$ -	$ 183 900		$ 183 900
24	SSP Feature Package - 11 Month Advancement	SSP_Deployment Ln 102 Col H	560C	$ -	$ -		$ -
25	SSP Feature Package - 9 Month Advancement	SSP_Deployment Ln 103 Col H	560C	$ -	$ 65 700		$ 65 700
26	SSP Feature Package - 0 Month Advancement	SSP_Deployment Ln 99 & Ln 104 Col H	560C	$ 482 200	$ 810 600		$ 1 292 800
27							
28	[redacted]						$ -
29							$ -
30							$ -
31	[redacted]						
32							$ -
33	[redacted]						
34							
35	[redacted]						
36							$ -
37	TOTAL CAPITAL			[redacted]	[redacted]		[redacted]
38	[redacted]						
39							
40							
41	EXPENSE						
42							
43							
44							
45	[redacted]						
46							
47							
48							
49							
50							
51							
52	[redacted]						
53							
54							
55							
56							
57	[redacted]						
58	BAC Salaries	Other Labor Costs Ln 65		$ -	$ 460 638		$ 460 638
59							
60							
61							
62	NeuStar			$ -	$ -	$ 115 066	$ 115 066
63							
64							
65							
66							
67							
68							
69	Contract Employee Network	Other Labor Costs Ln71		$ -	$ 58 219		$ 58 219
70	Switch Translations Costs	Other Labor Costs Ln29		$ 3 335	$ 2 757		$ 6 092
71							$ -
72	[redacted]			[redacted]	[redacted]	[redacted]	[redacted]
73							
74	TOTAL CAPITAL			$ 1,686,300	$ 1,641,400	$ -	$ 3,239,700
75	[redacted]			[redacted]	[redacted]	[redacted]	[redacted]
76	[redacted]						
77	[redacted]			[redacted]	[redacted]	[redacted]	[redacted]
78	Grand Total			$ 2 726,235	$ 3,513,414	$ 115 066	$ 6 354 715

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1	LATA	NPA	EQUIP	HOST ENTITY	CLLI	GENERICS	MONTHS	5E13	5E14	5E	3B20-21	DMS	EWSD		
2	CODE			REM ENTITY		PULLED UP	PULLED UP	RETROFIT 377C ACT	RETROFIT 377C ACT	TNP FEATURE 560C ACT	CONVERSION 377C ACT	BRIDGES 560C ACT	RELEASE 18 RETROFIT 377C ACT	560C ACT	TNP FEATURE 560C ACT
3															
4															
5															
6				FT. LAUDERDALE MSA JANUARY 22, 2001 (2000 $)											
7				954 NPA (ORDERED AREA)											
8	460	954	5ESS	Coral Springs	PMBHFLCSDS0	1	18	0.0	99.6						
9	460	954	5ESS	Cypress	FTLDFLCYDS0	1	18	0.0	104.9						
10	460	954	5ESS	Deerfield Beach	DRBHFLMADS0	1	18	0.0	98.3						
11	460	954	5ESS	Pompano Federal	PMBHFLFEDS0	1	18	0.0	87.4						
12	460	954	5ESS	Hollywood Main	HLWDFLMADS0	1	18	0.0	97.4						
13	460	954	5ESS	Jacaranda	FTLDFLJADS0	1	18	0.0	107.2						
14	460	954	5ESS	Margate	PMBHFLMADS0	1	18	0.0	12.9						
15	460	954	5ESS	Oakland	FTLDFLOADS0	1	18	0.0	111.8						
16	460	954	5ESS	Pembroke Pines	HLWDFLPEDS0	1	18	0.0	61.3						
17	460	954	5ESS	Plantation	FTLDFLPLDS0	1	18	0.0	0.0						
18	460	954	5ESS	Tamarac	PMBHFLTADS0	1	18	0.0	103.1		150.0				
19	460	954	5ESS	West Hollywood	HLWDFLWHDS0	1	18	0.0	105.9						
20	460	954	5ESS	Weston	FTLDFLWNDS0	1	18	0.0	107.3						
21	460	954	D-100	Main Relief *Note 1	FTLDFLMRDS0	NA	NA								
22	460	954	D-100	Sawgrass	FTLDFLSGDS0	NA	NA								
23						TOTAL		0.0	1097.1		150.0		0.0		
24				13	2	0									
25				PALM BEACH MSA FEBRUARY 5, 2001 (2000 $)											
26				561 NPA (ORDERED AREA)											
27	460	561	5ESS	Annex	WPBHFLANDS0	1	18	0.0	110.4						
28	460	561	5ESS	Boca Sandalfoot	BCRTFLSADS0	1	18	0.0	106.4						
29	460	561	5ESS	Greenacres	WPBHFLGADS0	1	18	0.0	108.3						
30	460	561	5ESS	Haverhill	WPBHFLHHDS0	1	18	0.0	112.5						
31	460	561	D-100	Belle Glade	BLGLFLMADS0	NA	NA								
32	460	561	D-100	Boca Teeca	BCRTFLBTDS0	NA	NA								
33	460	561	D-100	Gardens	WPBHFLGRDS0	NA	NA								
34	460	561	D-100	Lake Worth	WPBHFLLEDS0	NA	NA								
35	460	561	D-100	Royal Palm Beach	WPBHFLRPDS0	NA	NA								
36	460	561	EWSD	Boca Raton Main	BCRTFLMADS1	1	24						6.8		
37	460	561	EWSD	Boynton Beach Main	BYBHFLMADS0	1	24						6.8		
38						TOTAL		0.0	437.6		0.0		13.6		
39				4	5	2									

PRIVATE/PROPRIETARY
No disclosure outside BellSouth except by written agreement

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1	LATA	NPA	EQUIP	HOST ENTITY	CLLI	GENERICS	MONTHS	5E13	5E14	5E	3B20-21	DMS		EWSD	
2	CODE			REM ENTITY		PULLED UP	PULLED UP	RETROFIT 377C ACT	RETROFIT 377C ACT	TNP FEATURE 560C ACT	CONVERSION 377C ACT	BRIDGES 560C ACT	RELEASE 18 377C ACT	RETROFIT 560C ACT	TNP FEATURE 560C ACT
3															
4															
5															
40				JACKSONVILLE MSA 4/2/2001											
41				904 NPA (ORDERED AREA)											
42	452	904	5ESS	Arlington	JCVLFLARDS0	1	14	0.0	98.2						
43	452	904	5ESS	Beachwood	JCVLFLBWDS0	1	14	0.0	101.4						
44	452	904	5ESS	Mandarin Loretto	MNDRFLLODS0	1	14	0.0	200.9						
45	452	904	5ESS	Orange Park Main	ORPKFLMADS0	1	14	0.0	96.6						
46	452	904	5ESS	Ponte Vedra	PNVDFLMADS0	1	14	0.0	100.5						
47	452	904	5ESS	St Augustine Main	STAGFLMADS0	1	14	0.0	102.0						
48	452	904	5ESS	Wesconnett	JCVLFLWCDS0	1	14	0.0	109.0						
49	452	904	D-100	Clay Street DS0	JCVLFLCLDS0	NA	NA								
50	452	904	D-100	Fernandina Bch	FRBHFLFPDS0	NA	NA								
51	452	904	D-100	Fort Caroline	JCVLFLFCDS0	NA	NA								
52	452	904	D-100	Mandarin Avenues	MNDRFLAVDS0	NA	NA								
53	452	904	D-100	Normandy	JCVLFLNODS0	NA	NA								
54	452	904	D-100	Oceanway	JCVLFLOWDS0	NA	NA								
55	452	904	D-100	San Jose	JCVLFLSJ73E	NA	NA								
56	452	904	D1/2	San Marco	JCVLFLSMDS0	NA	NA								
57	452	904	D1/2	Clay Street DS1	JCVLFLCLDS1	NA	NA								
58	452	904	EWSD	Green Cove Springs	GCSPFLCNDS0	1	20						0.0		
59	452	904	EWSD	Middleburg	MDBGFLPMDS0	1	20						0.0		
60	452	904	EWSD	Orange Park Ridgewood	ORPKFLRWDS0	1	20						0.0		
61						TOTAL		0.0	808.6		0.0		0.0		
62				7	9	3									
63															
64				FLA KEYS OSMSA MAY 28, 2001											
65				305 NPA											
66	460	305/786	5ESS	Homestead	HMSTFLHMDS0	1	13	0.0	0.0						
67	460	305	5ESS	Key West	KYWSFLMADS0	1	13	0.0	0.0						
68						TOTAL		0.0	0.0		0.0		0.0		
69				2	0	0									
70				DAYTONA MSA JULY 16, 2001											
71				904 NPA (ORDERED AREA)											
72	456	904	D-100	New Smyrna Bch	NSBHFLMADS0	NA	NA								
73	456	904	D-100	Daytona Bch Main	DYBHFLMADS0	NA	NA								
74	456	904	D-100	Deland	DELDFLMADS0	NA	NA								
75	456	904	D-100	Ormond Beach	DYBHFLOBDS0	NA	NA								
76	456	904	D-100	Palm Coast	PLCSFLMADS0	NA	NA								
77	456	904	D-102	Port Orange	DYBHFLPODS0	NA	NA								
78	456	407	5ESS	DeBary Deltona	DBRYFLDLDS0	1	11	0.0	90.3						
79						TOTAL		0.0	90.3		0.0		0.0		
80				1	6	0									

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	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1	LATA	NPA	EQUIP	HOST ENTITY	CLLI	GENERICS	MONTHS	5E13	5E14	5E	3B20-21	DMS		EWSD	
2	CODE			REM ENTITY		PULLED UP	PULLED UP	RETROFIT	RETROFIT	TNP FEATURE	CONVERSION	BRIDGES	RELEASE 18 RETROFIT		TNP FEATURE
3								377C	377C	560C	377C	560C	377C	560C	560C
4								ACT	ACT	ACT	ACT	ACT	ACT	ACT	ACT
5															
81				FORT PIERCE/ST LUCIE MSA SEPTEMBER 17, 2001											
82				561 NPA (ORDERED AREA)											
83	460	561	5ESS	Ft Pierce 11/2001	FTPRFLMADS0	NA	NA	0.0	0.0						
84	460	561	5ESS	Port St Lucie Main	PTSLFLMADS0	1	9	0.0	195.9						
85	460	561	5ESS	Port St Lucie South	PTSLFLSOCG0	1	9	0.0	97.8						
86	460	561	5ESS	Stuart	STRTFLMADS0	1	9	0.0	97.7						
87	460	561	5ESS	Hobe Sound	HBSDFLMADS0	1	9	0.0	251.1						
88	460	561	DMS	Jupiter (12/2001)	JPTRFLMADS0	NA	NA								
89						TOTAL		0.0	642.5		0.0		0.0		
90					5	1	0								
91				[redacted]				0.0	1534.7		150.0		13.6		
92								0.0	1541.4		0.0		0.0		
93															
94				Year	Months Pulled Up		Account								
95							377C	560C							
96															
97				2000	18		1684.7								
98				2000	24		13.6								
99				2000	0		0								
100				2001	20		0								
101				2001	14		808.6								
102				2001	11		90 3								
103				2001	9		642.5								
104				2001	0		0								
105															
106				Switch Type	QTY										
107					2000	2001									
108				5ESS	17	15									
109				DMS	7	16									
110				EWSD	2	3									
111															
112															

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	A	B	C	D	E	F	G	H	I	J	K
1	Florida										
2	Index Sheet										
3	Study Period: 2002 - 2004										
4											
5											
6											
7											
8											
9			**Sheet Name:**		**Description:**						
10			Index		NPA Relief Cost						
11			Factors - Capital		Factors - Capital						
12			Factors - Expense		Factors - Expense						
13			Inputs		Inputs						
14			WP Capital		Capital Cost Calculations						
15			WP Expense		Expense Calculations						
16			NPA Costs		Summary of Capital Cost by NPA						
17			Translations		Summary of Translation by NPA						
18			Summary		NPA Relief Cost Summary by NPA						
19											
20											
21											
22											
23											
24											

	A	B	C	D
1	Florida			
2	Factors - Capital			
3	Study Period: 2002 - 2004			
4				
5				
6				Amount
7	Description	FRC	Source	2002
8				
9	COM		Cost Matters	11.25%
10				
11	Economic Life for 377C Capital	377C	Cost Matters	10
12				
13	Depreciation Factor for 377C Capital		Cost Matters	0.097622
14	Cost of Money Factor for 377C Capital		Cost Matters	0.051394
15	Income Tax Factor for 377C Capital		Cost Matters	0.023892
16	Plant Specific Factor for 377C Capital		Cost Matters	0.017533
17	Ad Valorem Factor for 377C Capital		Cost Matters	0.007421
18				
19				
20	Economic Life for 560C Capital	560C	Cost Matters	3
21				
22	Depreciation Factor for 560C Capital		Cost Matters	0.333333
23	Cost of Money Factor for 560C Capital		Cost Matters	0 052514
24	Income Tax Factor for 560C Capital		Cost Matters	0.024412
25	Ad Valorem Factor for 560C Capital		Cost Matters	0.007421
26				
27	Gross Receipt Tax Factor		Cost Matters	0.014633
28	Commom Overhead Loading Factor		Cost Matters	0.0442
29	Shared Factor for 377C		Cost Matters	0.011332
30				

	A	B	C	D
1	Florida			
2	Factors - Expense			
3	Study Period: 2002 - 2004			
4				
5				
6				Amount
7	Description	FRC	Source	2002
8				
9	COM		Cost Matters	11.25%
10				
11	Gross Receipt Tax Factor		Cost Matters	0.014633
12	Common Overhead Loading Factor		Cost Matters	0.0442
13				
14	Levelized 2002-2004 Labor Rate	WS32	Cost Matters	$31.34
15				
16				

	A	B	C	D	E	F
1	Florida					
2	Inputs					
3	Study Period: 2002 - 2004					
4						
5						
6						
7	Description	FRC	Source	Amount		
8	377C Capital - Announcement per switch	377C	Infrastructure Planning	$5,533 33		
9	377C Capital - E911 Trunks per switch in overlay	377C	Infrastructure Planning	$2,759.21		
10						
11						
12	Overlay 10 Digit Dialing per 5E switch	560C	Infrastructure Planning			
13	Overlay 10 Digit Dialing per DMS switch	560C	Infrastructure Planning			
14						
15	Expense for 911 Trunks per switch in overlay		Infrastructure Planning	$279.52		
16						
17						
18						
19	Switch Types					
20						
21	NPA	Type	5ESS	DMS	EWSD	DCO
22						
23						
24	Palm Beach	Overlay	4	5	2	0
25						
26						
27						
28						
29						
30						
31						
32						
33						
34						
35						
36						
37						

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	A	B	C	D
1	Florida			
2	Capital Cost Calculations			
3	Study Period: 2002 - 2004			
4				
5				
6				
7	Description	FRC	Source	Amount
8	Shared Factor for 377C		Factors - Capital, L29	0.011332
9	Depreciation Factor for 377C Capital		Factors - Capital, L13	0 097622
10	Cost of Money Factor for 377C Capital		Factors - Capital, L14	0 051394
11	Income Tax Factor for 377C Capital		Factors - Capital, L15	0 023892
12	Plant Specific Factor for 377C Capital		Factors - Capital, L16	0 017533
13	Ad Valorem Factor for 377C Capital		Factors - Capital, L17	0 007421
14				
15	COM		Factors - Capital, L9	11 25%
16				
17				
18	Depreciation Factor for 560C Capital		Factors - Capital, L22	0 333333
19	Cost of Money Factor for 560C Capital		Factors - Capital, L23	0 052514
20	Income Tax Factor for 560C Capital		Factors - Capital, L24	0 024412
21	Ad Valorem Factor for 560C Capital		Factors - Capital, L25	0 007421
22				
23	Economic Life for 377C Capital	377C	Factors - Capital, L11	10
24	Economic Life for 560C Capital	560C	Factors - Capital, L20	3
25	Gross Receipt Tax Factor		Factors - Capital, L27	0 014633
26	Common Overhead Loading Factor		Factors - Capital, L28	0 0442

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	A	B	C	D
1	Florida			
2	Capital Cost Calculations			
3	Study Period: 2002 - 2004			
4				
5				
6				
7	Description	FRC	Source	Amount
27				
28	377C Capital - Announcement per switch	377C	Inputs L8	$5,533 33
29				
30	Depreciation for 377C Switch Capital	377C	L28 X L9	$540 18
31	Cost of Money for 377C Switch Capital	377C	L28 X L10	$284 38
32	Income Tax for 377C Switch Capital	377C	L28 X L11	$132 20
33	Plant Specific for 377C Switch Capital	377C	L28 X L12	$97 02
34	Ad Valorem for 377C Switch Capital	377C	L28 X L13	$41.06
35				
36	**Present Value for Current Year**			
37				
38	Depreciation for 377C Switch Capital		PV(L15,L23,L30)	$3,148 14
39	Cost of Money for 377C Switch Capital		PV(L15,L23,L31)	$1,657 37
40	Income Tax for 377C Switch Capital		PV(L15,L23,L32)	$770 48
41	Plant Specific for 377C Switch Capital		PV(L15,L23,L33)	$565 41
42	Ad Valorem for 377C Switch Capital		PV(L15,L23,L34)	$239 31
43				
44	Sum PV 377C		Sum L38 - L42	$6,380 71
45				
46	Sum PV 377C w Shared & Common & GRT		(((L44 X (1+ L8)) X (1+L25)) X (1+L26))	$6,836 84
47				
48	**Sum PV of Cost of Announcement 377C per Switch**		**L46**	**$6,836.84**
49				

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	A	B	C	D
1	Florida			
2	Capital Cost Calculations			
3	Study Period: 2002 - 2004			
4				
5				
6				
7	Description	FRC	Source	Amount
50	377C Capital - E911 Trunks per switch in overlay	377C	Inputs L9	$2,759 21
51				
52	Depreciation for 377C Switch Capital	377C	L50 X L9	$269 36
53	Cost of Money for 377C Switch Capital	377C	L50 X L10	$141 81
54	Income Tax for 377C Switch Capital	377C	L50 X L11	$65 92
55	Plant Specific for 377C Switch Capital	377C	L50 X L12	$48 38
56	Ad Valorem for 377C Switch Capital	377C	L50 X L13	$20 48
57				
58	**Present Value for Current Year**			
59				
60	Depreciation for 377C Switch Capital		PV(L15,L23,L52)	$1,569 83
61	Cost of Money for 377C Switch Capital		PV(L15,L23,L53)	$826 45
62	Income Tax for 377C Switch Capital		PV(L15,L23,L54)	$384 20
63	Plant Specific for 377C Switch Capital		PV(L15,L23,L55)	$281 94
64	Ad Valorem for 377C Switch Capital		PV(L15,L23,L56)	$119 33
65				
66	Sum PV 377C		Sum L60 - L64	$3,181 76
67				
68	Sum PV 377C w Shared & Common & GRT		(((L66 X (1+ L8)) X (1+L25)) X (1+L26))	$3,409 21
69				
70	**Sum PV of Cost E911 Trunks 377C per Switch in Overlay**		**L68**	**$3,409.21**
71				

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	A	B	C	D
1	Florida			
2	Capital Cost Calculations			
3	Study Period: 2002 - 2004			
4				
5				
6				
7	Description	FRC	Source	Amount
72	Overlay 10 Digit Dialing per 5E switch	560C	Inputs L12	
73				
74	Depreciation for 560C	560C	L72 X L18	
75	Cost of Money for 560C	560C	L72 X L19	
76	Income Tax for 560C	560C	L72 X L20	
77	Ad Valorem for 560C	560C	L72 X L21	
78				
79	**Present Value for Current Year**			
80				
81	Depreciation for 560C	560C	PV(L15,L24,L74)	
82	Cost of Money for 560C	560C	PV(L15,L24,L75)	
83	Income Tax for 560C	560C	PV(L15,L24,L76)	
84	Ad Valorem for 560C	560C	PV(L15,L24,L77)	
85				
86	Sum PV 560C		Sum L81 - L84	
87				
88	Sum PV 560C w Common & GRT		((L86 X (1+L25)) X (1+L26))	
89				
90	**Total Cost 560C for Overlay 10 Digit Dialing for 5E Switch**		**L88**	
91				

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	A	B	C	D
1	Florida			
2	Capital Cost Calculations			
3	Study Period: 2002 - 2004			
4				
5				
6				
7	Description	FRC	Source	Amount
92	Overlay 10 Digit Dialing per DMS switch	560C	Inputs L13	
93				
94	Depreciation for 560C	560C	L92 X L18	
95	Cost of Money for 560C	560C	L92 X L19	
96	Income Tax for 560C	560C	L92 X L20	
97	Ad Valorem for 560C	560C	L92 X L21	
98				
99	**Present Value for Current Year**			
100				
101	Depreciation for 560C	560C	PV(L15,L24,L94)	
102	Cost of Money for 560C	560C	PV(L15,L24,L95)	
103	Income Tax for 560C	560C	PV(L15,L24,L96)	
104	Ad Valorem for 560C	560C	PV(L15,L24,L97)	
105				
106	Sum PV 560C		Sum L101 - L104	
107				
108	Sum PV 560C w Common & GRT		((L106 X (1+L25)) X (1+L26))	
109				
110	**Total Cost 560C for Overlay 10 Digit Dialing for DMS Switch**		**L108**	

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	A	B	C	D
1	Florida			
2	Expense Calculations			
3	Study Period: 2002 - 2004			
4				
5				
6				Amount
7	Description	JFC / JG / WS	Source	2002
8				
9	Expense for 911 Trunks per switch in overlay		Inputs L15	$280
10	Gross Receipt Tax Factor		Factors - Expense L11	0.014633
11	Common Overhead Loading Factor		Factors - Expense L12	0.0442
12	Total Expense w GRT		L9 X (1+L10)	$283.61
13	Total Expense w Common		L12 X (1+ L11)	$296.14
14				
15	**Expense for 911 Trunks per Switch in Overlay**		**L13**	**$296.14**
16				
17				

	A	B	C	D	E	F	G	H
1	Florida	Type	5ESS	DMS	EWSD	DCO		Total
2								
3	Study Period 2002 - 2004							
4								
5								
6	Palm Beach	Overlay	4	5	2	0		11
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
17								
18								
19								
20								
21								
22								
23								
24								
25								
26	**Description**	**Amount**	**Source**					
27	Sum PV of Cost of Announcement 377C per Switch	$6,836.84	WP Capital, L48					
28	Sum PV of Cost E911 Trunks 377C per Switch in Overlay	$3,409 21	WP Capital, L70					
29	Total Cost 560C for Overlay 10 Digit Dialing for 5E Switch		WP Capital, L90					
30	Total Cost 560C for Overlay 10 Digit Dialing for DMS Switch		WP Capital, L110					
31								
32	Expense for 911 Trunks per Switch in Overlay	$296 14	WP Expense, L15					
33								
34								
35								
36								
37	NPA	377C		560C		Expense		
38		Source	Amount	Source	Amount	Source	Amount	
39								
40	Palm Beach	(L27*L6 Total) + (L28*L6 Total)	$112,706 55	(L29*L6)+(L30*L6)		L32*L6 Total	$3,257 58	

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	A	B	C	D	E	F	G	H
1	Florida	Type	5ESS	DMS	EWSD	DCO	Source	Translation Costs /NPA
2								
3	Study Period: 2002 - 2004							
4								
5	Palm Beach	Overlay	4	5	2	0	L5 X L29 X L32	$20,057.60
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
17								
18								
19								
20								
21								
22								
23								
24								
25								
26								
27	Hours/Sw							
28								
29	Overlay		110	40	0	0		
30								
31								
32	Labor Rate WS32	$31.34						
33	Levelized 2002-2004							

	A	B	C
1	Florida		
2	NPA Relief Cost Summary by NPA		
3	Study Period: 2002 - 2004		
4			
5			
6	Item/Description	Source	Amount
7			
8	**Palm Beach**		
9	Customer Notification	Infrastructure Planning	$54,608 00
10	Directory Publication	Infrastructure Planning	$304,541 00
11	Information Technology	Infrastructure Planning	$1,268,791 00
12	377C Capital	NPA Costs L40	$112,706 55
13	560C for 10 Digit Dialing	NPA Costs L40	$632,570.93
14	Expense	NPA Costs L40	$3,257 58
15	Translation Cost	Translations L5	$20,057.60
16			
17	Total	Sum L9 L15	$2,396,532 66

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: cost recovery and allocation issues for number pooling trials in Florida.	))))	Docket No. 001503-TP Filed: September 30, 2002

SPRINT-FLORIDA, INCORPORATED'S PETITION FOR COST RECOVERY

Pursuant to Rule 28-106.201, F.A.C., and Florida Public Service Commission Order No. 02-0466-PAA-TP, issued April 5, 2002, Sprint-Florida, Incorporated ("Sprint") files this Petition for Cost Recovery and states:

1. Sprint is an incumbent local exchange carrier ("ILEC"), lawfully doing business in the State of Florida.
2. On April 5, 2002, the Florida Public Service Commission issued Order No. PSC-02-0466-TP (hereinafter "Order"), which authorizes carriers to file petitions with the Commission detailing the means by which the carrier can recover the costs associated with thousands-block number pooling. In this petition, Sprint seeks to recover its carrier-specific costs as provided in the Order.
3. On July 3, 2002, Sprint filed a Petition for Extension of Filing Deadline for its Petition for Recovery of Number Pooling Costs. In Order No. PSC-02-0967-FOF-TP, the Commission granted Sprint's petition and gave Sprint until September 30, 2002 to submit its petition setting forth its proposed cost recovery mechanism and supporting documentation.
4. Sprint has participated in number pooling trials on both the federal and state level and has incurred costs associated with number pooling in Florida.

DOCUMENT NUMBER-DATE
10498 SEP 30 02
FPSC-COMMISSION CLERK

Attachment 14

5. Sprint submitted its federal pooling cost recovery proposal to the Federal Communications Commission (FCC) on June 17, 2002. The FCC approved Sprint's federal tariff reflecting its cost recovery proposal to take effect on July 2, 2002.
6. Sprint has employed the same methodology used in the FCC filing in preparing its cost recovery study for the pooling trials in Florida.
7. Sprint's substantial interests will be affected by the Commission's action on this petition because such a decision will affect whether and how Sprint will be allowed to recover carrier-specific costs associated with state thousands-block pooling trials.
8. Specifically, Sprint proposes to recover its carrier-specific costs through a one-time surcharge assessed per access line, excluding Lifeline access lines. Sprint's cost analysis and supporting documentation is attached to this petition as Exhibit "A" and incorporated herein by reference. (Portions of Exhibit "A" are proprietary business information and are being filed with the Commission Clerk under a Request for Confidentiality. A redacted version of Exhibit "A" is attached.)
9. As evidenced by the attached documentation, pooling results in a net cost increase, rather than a cost reduction, for Sprint. Further, the costs included in the attached calculations are direct and proximate results of the provision of thousands-block number pooling. In addition, Sprint submits that the costs included in the calculation are "new" costs and are Florida-specific costs not related to national number pooling.

WHEREFORE, Sprint respectfully requests that the Commission grant this petition and authorize recovery of Sprint's carrier-specific costs pursuant to the methodology described herein.

RESPECTFULLY SUBMITTED this 30th day of September 2002.

Susan S. Masterton
P.O. Box 2214
Tallahassee, FL 32316-2214
Phone: 850-599-1560
Fax: 850-878-0777
susan.masterton@mail.sprint.com

ATTORNEY FOR SPRINT

Sprint - Florida, Incorporated

Petition for Cost Recovery of Number Pooling Trials

Description and Justification

Sprint – Florida, Incorporated (Sprint) hereby submits the following information in support of its Petition for Cost Recovery for Number Pooling Trials.

This filing is being made pursuant to Order No. PSC-02-0967-PCO-TP, Granting Sprint's Petition for Extension of Filing Deadline for Petition for Recovery of Number Pooling Costs.

Certain portions of the cost support material for this filing are being submitted under separate cover with a request that it be treated as confidential pursuant to s. 364.183, Florida Statutes. The information constitutes confidential business information, which, if disclosed, could substantially harm the competitive position of Sprint.

1.0 Description

On April 5, 2002, The Florida Public Service Commission issued Order No. PSC-02-0466-PAA-TP, which authorizes carriers to file petitions with the Commission detailing the means by which the carrier can recover its carrier-specific costs directly related to thousands-block number pooling. Thousands-Block Number Pooling (TBNP) allows number resources to be allocated in blocks of one thousand numbers (NXX-X) replacing the previous industry standard allocation of ten thousand numbers (NXX). Because telephone numbers and number administration are critical to telephone company operations and to the

functioning of the public switched telephone network, the changes required to operate under the number pooling environment are significant.

2.0 Cost Development

In the *First Number Resource Optimization Order*, the Federal Communications Commission adopted principles for the recovery of the costs of the new thousands-block system similar to those established for the recovery of number portability costs.[1] In the *Cost Recovery and Allocation Issues for Number Pooling Trials Order*, the Florida Public Service Commission allowed carriers to file a petition with a cost recovery mechanism that meets federal and state law in order to recover their extraordinary carrier-specific costs directly related to TBNP state trials in Florida.[2]

The criteria established in the *Third Number Resource Optimization Order* to identify TBNP costs eligible for recovery are as follows. First, only costs that would not have been incurred "but for" TBNP are eligible. Second, only costs incurred "for the provision of" TBNP are eligible. Third, only "new costs" are eligible. With respect to the first two criteria, the Commission explained that "costs specifically incurred in the narrowly defined thousands-block pooling functions are those incurred specifically to identify, donate and receive blocks of pooled numbers, to create and populate the regional databases and carriers' local copies of these databases, and to adapt the procedures for querying these databases, and

[1] *In the Matter of Number Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 RCC Rcd 7574 (2000) at 6, 192-215.

[2] *In re: Cost Recovery and Allocation Issues for Number Pooling trials in Florida*, Docket No. 001503-TP, Order No. PSC-02-0466-PAA-TP (2002) at 11.

for routing calls so as to accommodate a number pooling environment."[3] With respect to the third criteria, the FCC explained that costs are not "new" and thus ineligible for recovery if they are already being recovered under ordinary recovery mechanisms, or are already being recovered through number portability charges.[4] Sprint's filing conforms in all respects to these requirements.

The cost study covers the time period in which costs specifically associated with implementing TBNP in the NPAs mandated by the FPSC were incurred. Also included in the cost study are advancement costs associated with early implementation of TBNP resulting from state mandates.[5] Finally, Sprint calculated the amount of anticipated costs associated with NPA exhaust that would be incurred if TBNP were not implemented in these state trials and subtracted the savings associated with the deferral of these costs from the implementation costs to obtain a net cost for recovery.[6]

As explained above, TBNP fundamentally changes the way in which numbers are administered. These changes require the modification of operation support systems and network systems to support number pooling. In tabulating the investment and expenses associated with the implementation of TBNP, Sprint has complied fully with the directives laid out in *Third Number Resource Optimization Order.* In accordance with these directives, Sprint's cost study includes only those costs that meet the established criteria.

Sprint's direct TBNP costs used in developing the amount of cost recovery in

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[3] *In the Matter of Number Resource Optimization*, CC Docket No. 99-200, Third Report and Order and Second Reconsideration, 16 FCC Rcd 21771 (2001) at 23.

[4] Id at 24.

[5] Id at 15.

accordance with the *Third Number Resource Optimization Order* are described below and summarized on Chart 2A.

Number Provisioning Administration Center (NPAC)

The NPAC costs of TBNP are Sprint's share of industry costs for the NPAC database number pooling software upgrades, NPAC pooled number database downloads, and the national number pooling administrator (NeuStar) administrative costs.

All telecommunications carriers pay for the maintenance and operation of the NPAC databases. Each carrier is allocated a portion of the NPAC database costs based on its total end-user telecommunications revenues. NeuStar, the NPAC administrator, invoices each carrier based on its allocation. Sprint calculated its share of the NPAC TBNP costs based on the current, FCC-approved, end-user telecommunications revenue percentages used for allocating LNP industry shared costs.

Network

In order to properly route calls in the new TBNP environment, Sprint made TBNP-specific upgrades to 14 switches. Second generation digital switches (DMS-10; DMS-100; DMS-200; and 5ESS) required software upgrades specifically to allow for the proper call routing of pooled numbers. The investment and expenses in Sprint's cost study include those costs directly associated with end office and tandem number pooling functionality for switches impacted by the state TBNP trial implementation schedule.

[6] Id at 21.

Number Administration

Number administration costs are those costs associated with telephone number assignment and administration to identify, donate, and receive blocks of pooled numbers. These expenses include the initial processes involved with inventorying pooled blocks and identifying contaminated numbers in these blocks for porting working numbers back to Sprint upon donation of a thousands block to the pooling administrator. In order to provide blocks of numbers to the national administrator, Sprint personnel in switch administration and operation support must undertake an exhaustive inventory of numbers currently assigned to Sprint under the ten-thousand number block regime. Accuracy in this endeavor is paramount, since the inadvertent contribution of an active number to the pool may result in disruption of a customer's service. The costs that are associated with these activities are detailed in Exhibit 4 (page 11 of 14 in the Attachment to this Exhibit).

Operational Support Systems

These expenses are associated with the automation of processes created by the need to identify, donate, and receive pooled numbers. These systems also support the creation and population of the number pooling databases, adapt procedures for querying these databases, and support the routing of calls to accommodate a number pooling environment. These systems include order entry systems, telephone number assignment, customer records storage, and NXX-X management capability. The systems impacts are described in detail in Exhibit 5 (page 12 of 14 in the Attachment to this Exhibit).

Testing, Training, and Provisioning

Operating in the new TBNP environment requires the establishment of new numbering administration methods and procedures, as well as systems modifications. To ensure that the new methods, procedures, and modified systems work as intended, they must be tested and personnel must be trained to use the new methods, procedures, and systems properly.

Testing, training, and provisioning expenses are those costs incurred to ensure Sprint personnel are properly equipped to support the number pooling functions of identifying, receiving, and donating pooled numbers. This category also includes expenses incurred by Sprint to test its systems to ensure that pooled numbers are routed properly throughout the network. Specifically, all of the system changes noted above must be tested in order to ensure accurate order activity processing once TBNP is turned-up. Finally, the software and hardware deployed to support TBNP in the central office must be tested. Associated with the implementation and continued support of TBNP, training must be conducted for essential personnel. These employees include, for example, persons who staff the service center, business offices, or central offices that directly implement number pooling. These costs are identified in Exhibit 6 (page 13 of 14 in the Attachment to this Exhibit).

Cost Savings

Savings are treated as contra-expenses and are based on the anticipated NPA relief expenses that would occur over the next five years if not for number pooling. Cost savings are calculated assuming that TBNP will delay NPA exhaust. The calculated savings reflect

the cost of money saved due to the deferral of NPA exhaust. Exhibit 7 (page 14 of 14 in the Attachment of Exhibit) provides the details of the cost savings calculation.

3.0 Cost Apportionment

In the cost study, Sprint identified and directly assigned to TBNP, the incremental TBNP costs associated with Numbering Administration, Operation Support Systems, Testing, Training, and Provisioning, and Cost Savings. In order to isolate and assign to TBNP "shared" incremental NPAC, and Switch Upgrade costs specifically to Sprint's local operations in Florida and specifically to number pooling functionality, Sprint employed a cost causative approach based on relative use. Specifically, Exhibit 1 (pages 6 and 7 of 14 in the Attachment to the Exhibit) display the allocation percentages by year for the cost pools identified in Chart 1B (page 3 of 14 in the Attachment to the Exhibit). Sprint's apportionment methodology is the same methodology employed by Sprint and approved by the FCC for LNP cost recovery.

4.0 Revenue Requirement Calculations

The methodology associated with determining Sprint's Number Pooling revenue requirement complies with the FCC's established parameters for cost recovery from the *Third Number Resource Optimization Order*. The study process consisted of identifying the incremental investments and expenses associated with implementing TBNP. This consisted of the identification of cost in the following categories: Number Pooling Administration Center (NPAC), Switch Number Pooling Upgrades, Number Administration, Operation Support Systems, Testing, Training, Provisioning and Cost Savings.

The revenue requirement developed in Sprint's cost study is a one-time revenue requirement. Recovery of investments and expenses within this revenue requirement include prior year expenditures from 1998 through 2001 and cost savings for 2002 through 2006. Revenue requirements in this cost study were calculated using the same approach utilized by Sprint and approved by the FCC in the development of LNP cost recovery. The investment related revenue requirements include the following investment related cost components of capital recovery: maintenance, return, federal income tax, state income tax, and other tax. Each of these components is calculated separately on page 5 of 14, lines 2 through 13 of the cost study support papers. The following describes each of the revenue requirement components.

Investment (line 2) - The investment reflects the incremental investment associated with the provision of Number Pooling.

Capital Recovery (line 7) - The capital recovery calculation reflects a one-year recovery period. Investment shown in year 1 reflects the entire amount of capital recovery.

Maintenance (line 9) - The maintenance calculation reflects annual maintenance based upon actual maintenance relationships to booked investments. This maintenance relationship was based upon actual 2000 Sprint-Florida financial data for the 2212 account. The calculation utilizes the basic approach of multiplying a maintenance factor times the average gross investment to reflect the annual maintenance cost.

Return (line 10) - The return calculation reflects the annual return on investment. The return component is calculated by multiplying the return rate times the average investment less cumulative depreciation.

Federal Income Tax (line 11) - The federal income tax component reflects federal income tax on an annual basis for each year. It is calculated by taking the return and subtracting the portion associated with the cost of debt, which then gets multiplied times the federal income tax rate divided by one minus the federal income tax rate.

State & Local Income Tax (line 12) - The state income tax calculation reflects state income tax on an annual basis for each year. It is calculated by taking the return and subtracting the portion associated with the cost of debt plus the calculated federal income tax, which then gets multiplied times the state and local income tax rate divided by one minus the state and local income tax rate.

Other Tax (line 13) - The other tax calculation reflects other taxes on an annual basis for each year. The rate for other taxes was derived using actual 2000 financial data, by dividing the other taxes by gross plant. It is calculated by taking the average investment times the other tax factor.

Expense (line 16) - The expense identified on line 16 reflects the incremental expenses associated with the provisioning of Number Pooling for each of the cost categories. Included in this cost is the advancement cost associated with prior year investment and expenses that

are state specific. This approach of including the advancement cost for state pooling that occurred ahead of the national schedule is in accordance with the directives in the *Third Number Resource Optimization Order* and *the Florida Cost Recovery and Allocation Order.*

Total Revenue Requirement (line 17) - The total revenue requirement is developed by summing all the investment related cost components plus the direct expenses that have been identified.

Incremental Support Labor (line 19) - The incremental support labor reflects the incremental number pooling support labor expenses associated with administrative support staff in the implementation of number pooling. The incremental administrative support labor is shown on Exhibit 2.

Uncollectible (line 22) - The uncollectible factor reflects the annual uncollectible expense relationship to annual revenues. One plus the uncollectible factor is then multiplied times the revenue requirement plus incremental number pooling support labor, to develop the number pooling revenue requirement plus uncollectible expenses.

Total Revenue Requirement (line 24) - This line shows Sprint's total number pooling revenue requirement. The revenue requirement includes the following revenue requirement components of capital recovery, maintenance, return, federal income tax, state income tax, other tax, direct expense, incremental support labor and uncollectibles.

5.0 Rate Development Methodology

The total costs for TBNP are summed to develop the Total Revenue Requirement. The Total Revenue Requirement is divided by the Total Access Line count weighted at one unit per switched line. This yields the Revenue Requirement per Line, which will be assessed as a one-time End User charge.

Total Revenue Requirement	$1.515 M
Total Access Lines	2.115 M
Revenue Requirement per Line	$ 0.72

6.0 Conclusion

Sprint is submitting the accompanying Petition for Cost Recovery in accordance with the Commission's thousands-block number pooling decision. The rate proposed in this petition is consistent with the Commission's Order, and is supported by exhibits detailing cost and rate development. The associated rate is demonstrated to be fully cost-based and reasonable, and in full compliance with the Commission's Order.

Sprint-Florida, Inc.
Number Pooling - Summary
Investment, and Incremental Expenses

(000) Omitted

A	B	C	D	E	F	G	H	I
Ln #	Description	Sourc/Calc	Year 1	Year 2	Year 3	Year 4	Year 5	Total
1	Type 1 & 2							
2	Incremental Investment	=Chart 1B Ln16	243	-	-	-	-	243
3	Incremental Installation	=Chart 1B Ln33	33	-	-	-	-	33
4	Total Investment	=Ln2+Ln3	277	-	-	-	-	277
5								
6	Incremental Expenses	=Chart 1B Ln50	302	-	-	-	-	302
7	Type 3 (Not Included in Recovery)		17	-				17
8	Total Deployment Cost	=Ln4+Ln6+Ln7	596	-	-	-	-	596
9								
10								
11	Detailed Cost For Recovery							
12	Investments							
13	SS7 - SCPs	Chart 2A Ln5 +Chart 2A Ln2	-	-	-	-	-	-
14	SS7 - Link	Chart 2A Ln6 +Chart 2A Ln2	-	-	-	-	-	-
15	Switch NP Upgrades	Chart 2A Ln7 +Chart 2A Ln2	-	-	-	-	-	-
17	LTD - Operations Support Syst	Chart 2A Ln8 +Chart 2A Ln2	-	-	-	-	-	-
18	Total Investment	=Sum (Ln13:Ln17)	274	-	-	-	-	274
19								
20	Expenses							
21	LTD - NPAC	=Chart 2A Ln37	20	-	-	-	-	20
22	SS7 - SCPs	=Chart 2A Ln39	-	-	-	-	-	-
23	SS7 - Link	=Chart 2A Ln40	-	-	-	-	-	-
24	Switch NP Upgrades	=Chart 2A Ln41	66	-	-	-	-	66
25	National Pooling Admin.	=Chart 2A Ln42	-	-	-	-	-	-
26	Cost Savings	=Chart 2A Ln43	(187)	-	-	-	-	(187)
28	LTD - Number Administration	=Chart 2A Ln47	262	-	-	-	-	262
29	LTD - Operations Support Syst	=Chart 2A Ln48	60	-	-	-	-	60
30	LTD - Testing, Training & Prov	=Chart 2A Ln49	80	-	-	-	-	80
31	Total Expense	=Sum (Ln21 Ln30)	301	-	-	-	-	301
32								
33	Total Cost for Recovery	=Ln18+31	574	-	-	-	-	574
34								
35								
36								
37	Annual Revenue Requirement	Chart 2B Rev Req	1,515	-				1,515
38								
39								
40								
41	Please Note:		Year 1 includes prior year expenditures.					
42			Year 1 = Jan 2003 - Dec 2003					
43								

Sprint-Florida, Inc.
Number Pooling
Chart 1A
Investment, Installation Costs, and Incremental Expenses
(000) Omitted

A Ln #	B Description	C	D Year 1	E Year 2	F Year 3	G Year 4	H Year 5	I Total
1								
2	**Incremental Investment**	=Chart 1B Ln16	243	-	-	-	-	243
3	**Incremental Installation**	=Chart 1B Ln33	33	-	-	-	-	33
4	**Total Investment**	=Ln2+Ln3	277	-	-	-	-	277
5								
6	**Incremental Expenses**	=Chart 1B Ln50	302	-	-	-	-	302
7								
8	**Demand**							
9	End User Billable Units	Input	2,115					
10								
11	Number of Switches	Input	14					N/A
12								
13	Total Sprint SCP Queries	Input	51,231,904					51,231,904
14								
15	Total LTD NP Queries	Input	15,976,960					15,976,960
16								
17	Total NP Direct Queries	Input	15,761,471					15,761,471
18								
19								
20								
21	**Please Note:**		**Excludes Lifeline End Users**					
22			**Year 1 = 2003**					
23								
24								
25								

Sprint-Florida, Inc.
Number Pooling
Chart 1B
Investment, Installation Costs, and Incremental Expenses
(000) Omitted

A Ln #	B Description	C Acct	D Year 1	E Year 2	F Year 3	G Year 4	H Year 5	I Total
1								
2	**Investments**							
3	LTD - NPAC			-	-	-	-	
4	SS7 - STPs			-	-	-	-	
5	SS7 - SCPs	#1		-	-	-	-	
6	SS7 - Link	#1		-	-	-	-	
7	Switch NP Upgrades	2212		-	-	-	-	
8	National Pooling Admin.			-	-	-	-	
9	Cost Savings			-	-	-	-	
10	Customer Notification			-	-	-	-	
11	NPAP - Local SMS			-	-	-	-	
12	NPAP - SOA			-	-	-	-	
13	LTD - Number Administration			-	-	-	-	
14	LTD - Operations Support Systems	2124		-	-	-	-	
15	LTD - Testing, Training & Provisioning			-	-	-	-	
16	**Total Material Investment**		243	-	-	-	-	243
17								
18								
19	**Installation Costs**							
20	LTD - NPAC			-	-	-	-	
21	SS7 - STPs			-	-	-	-	
22	SS7 - SCPs	#1		-	-	-	-	
23	SS7 - Link	#1		-	-	-	-	
24	Switch NP Upgrades	2212		-	-	-	-	
25	National Pooling Admin.			-	-	-	-	
26	Cost Savings			-	-	-	-	
27	Customer Notification			-	-	-	-	
28	NPAP - Local SMS			-	-	-	-	
29	NPAP - SOA			-	-	-	-	
30	LTD - Number Administration			-	-	-	-	
31	LTD - Operations Support Systems			-	-	-	-	
32	LTD - Testing, Training & Provisioning			-	-	-	-	
33	**Total Installation Investment**		33	-	-	-	-	33
34								
35								
36	**Expenses**							
37	LTD - NPAC	6532	20	-	-	-	-	20
38	SS7 - STPs	6532	-	-	-	-	-	-
39	SS7 - SCPs	6532	-	-	-	-	-	-
40	SS7 - Link	6532	-	-	-	-	-	-
41	Switch NP Upgrades	6212	67	-	-	-	-	67
42	National Pooling Admin.		-	-	-	-	-	-
43	Cost Savings		(187)	-	-	-	-	(187)
44	Customer Notification		-	-	-	-	-	-
45	NPAP - Local SMS	6532	-	-	-	-	-	-
46	NPAP - SOA	6532	-	-	-	-	-	-
47	LTD - Number Administration	6532	262	-	-	-	-	262
48	LTD - Operations Support Systems	6724	60	-	-	-	-	60
49	LTD - Testing, Training & Provisioning		80	-	-	-	-	80
50	**Total Expense**		302	-	-	-	-	302
51								
52								
53	Please Note:	#1	These investments are held by Sprint United Management Company. If they					
54			were held by a regulated entity they would be booked to a 2212 account.					
55								
56			Year 1 includes prior year investment and expenses.					
57								
58								

Sprint-Florida, Inc.
Number Pooling
Chart 2A
Investment, Installation Costs, and Incremental Expenses
(000) Omitted

A Ln #	B Description	C Alloc. Method	D Calc/Source	E Year 1	F Year 2	G Year 3	H Year 4	I Year 5	J Total
1									
2	**Investments**								
3	LTD - NPAC	NP Dir / Tot LTD NP	=Chart 1B*Cost Drivers		-	-	-	-	
4	SS7 - STPs	N/A	=Chart 1B*Cost Drivers		-	-	-	-	
5	SS7 - SCPs	NP Dir / Tot SCP	=Chart 1B*Cost Drivers		-	-	-	-	
6	SS7 - Link	NP Dir / Tot SCP	=Chart 1B*Cost Drivers		-	-	-	-	
7	Switch NP Upgrades	NP Dir / Tot LTD NP	=Chart 1B*Cost Drivers		-	-	-	-	
8	National Pooling Admin.	Direct	=Chart 1B*Cost Drivers		-	-	-	-	
9	Cost Savings	Direct	=Chart 1B*Cost Drivers		-	-	-	-	
10	Customer Notification	N/A	=Chart 1B*Cost Drivers		-	-	-	-	
11	NPAP - Local SMS	N/A	=Chart 1B*Cost Drivers		-	-	-	-	
12	NPAP - SOA	N/A	=Chart 1B*Cost Drivers		-	-	-	-	
13	LTD - Number Administration	Direct	=Chart 1B*Cost Drivers		-	-	-	-	
14	LTD - Operations Support Sys	Direct	=Chart 1B*Cost Drivers		-	-	-	-	
15	LTD - Testing, Training & Pro	Direct	=Chart 1B*Cost Drivers		-	-	-	-	
16	**Total Material Investment**			**241**	-	-	-	-	**241**
17									
18									
19	**Installation Costs**								
20	LTD - NPAC	NP Dir / Tot LTD NP	=Chart 1B*Cost Drivers		-	-	-	-	
21	SS7 - STPs	N/A	=Chart 1B*Cost Drivers		-	-	-	-	
22	SS7 - SCPs	NP Dir / Tot SCP	=Chart 1B*Cost Drivers		-	-	-	-	
23	SS7 - Link	NP Dir / Tot SCP	=Chart 1B*Cost Drivers		-	-	-	-	
24	Switch NP Upgrades	NP Dir / Tot LTD NP	=Chart 1B*Cost Drivers		-	-	-	-	
25	National Pooling Admin.	Direct	=Chart 1B*Cost Drivers		-	-	-	-	
26	Cost Savings	Direct	=Chart 1B*Cost Drivers		-	-	-	-	
27	Customer Notification	N/A	=Chart 1B*Cost Drivers		-	-	-	-	
28	NPAP - Local SMS	N/A	=Chart 1B*Cost Drivers		-	-	-	-	
29	NPAP - SOA	N/A	=Chart 1B*Cost Drivers		-	-	-	-	
30	LTD - Number Administration	N/A	=Chart 1B*Cost Drivers		-	-	-	-	
31	LTD - Operations Support Sys	N/A	=Chart 1B*Cost Drivers		-	-	-	-	
32	LTD - Testing, Training & Pro	N/A	=Chart 1B*Cost Drivers		-	-	-	-	
33	**Total Installation Investment**			**33**	-	-	-	-	**33**
34									
35									
36	**Expenses**								
37	LTD - NPAC	NP Dir / Tot LTD NP	=Chart 1B*Cost Drivers	20	-	-	-	-	20
38	SS7 - STPs	N/A	=Chart 1B*Cost Drivers	-	-	-	-	-	-
39	SS7 - SCPs	NP Dir / Tot SCP	=Chart 1B*Cost Drivers	-	-	-	-	-	-
40	SS7 - Link	NP Dir / Tot SCP	=Chart 1B*Cost Drivers	-	-	-	-	-	-
41	Switch NP Upgrades	NP Dir / Tot LTD NP	=Chart 1B*Cost Drivers	66	-	-	-	-	66
42	National Pooling Admin.	Direct	=Chart 1B*Cost Drivers	-	-	-	-	-	-
43	Cost Savings	Direct	=Chart 1B*Cost Drivers	(187)	-	-	-	-	(187)
44	Customer Notification	N/A	=Chart 1B*Cost Drivers	-	-	-	-	-	-
45	NPAP - Local SMS	N/A	=Chart 1B*Cost Drivers	-	-	-	-	-	-
46	NPAP - SOA	N/A	=Chart 1B*Cost Drivers	-	-	-	-	-	-
47	LTD - Number Administration	Direct	=Chart 1B*Cost Drivers	262	-	-	-	-	262
48	LTD - Operations Support Sys	Direct	=Chart 1B*Cost Drivers	60	-	-	-	-	60
49	LTD - Testing, Training & Pro	Direct	=Chart 1B*Cost Drivers	80	-	-	-	-	80
50	**Total Expense**			**301**	-	-	-	-	**301**
51									
52									
53									
54									
55									
56									
57									
58									

Sprint-Florida, Inc.
Number Pooling
Chart 2B - Revenue Requirement (One Year Recovery)
(000) Omitted

A Ln #	B Description	C Input	D Calc/Source	E Year 1	F Year 2	G Year 3	H Year 4	I Year 5	J Total
1									
2	Incremental Investment by Yr		Chart 2A	241	-	-	-	-	241
3	Incremental Installation by Yr		Chart 2A	33	-	-	-	-	33
4	**Total Investment**		=Ln2+Ln3	274	-	-	-	-	274
5	**Cumulative Investment**		=Ln4 + Prev Yr Cum Inv Ln5	274	-	-	-	-	N/A
6									
7	Total Annual Depr		1Yr Amortization	274	-	-	-	-	274
8	Cumulative Depr for Return		Note # 1	274	-	-	-	-	N/A
9	Maintenance	2.75%	=Avg Inv * Ln 9	8	-	-	-	-	8
10	Return	12.26%	=C * (Inv - Avg Cum Depr)	17	-	-	-	-	17
11	Federal Inc. Tax	35%	=(Ln 10-((Ln5-AvgLn8)*.1598* 0;	8	-	-	-	-	8
12	State & Loc Inc. Tax	5.50%	= ((Ln10-((Ln5-AvgLn8)* 1598*.0	1	-	-	-	-	1
13	Other Tax	0.72%	=Avg Inv * Ln 5	2	-	-	-	-	2
14	Inv Related Rev. Req.		=Ln7+SUM(Ln9.Ln13)	309	-	-	-	-	309
15	Inv Related Rev Req % of Cumulative Inv.			113%	0%	0%	0%	0%	N/A
16	Total Expense		='Chart 2A	301	-	-	-	-	301
17	Total Rev. Req.		=Ln14+Ln16	610	-	-	-	-	610
18									
19	Incr. Support Labor		Incr. Support Labor Study	887					887
20	Rev Req & Common Exp.		=Ln17+Ln19	1,497					1,497
21									
22	Uncollectible Factor		Uncollectible Study	1.16%					
23									
24	**Total Revenue Requirement**		=Ln20*(1+Ln22)	1,515					1,515
25									
26	Number of Lines - January 2003		Chart 1A	2,115					
27									
28	Monthly Rev Req per Line		=Ln24/Ln26	0.7163					
29									
30	**LNP End User One-time Rate**		**=Ln28**	**$ 0.72**					**$ 0.72**
31									
32									
33									
34									
35	Please Note:	# 1	One year Amortization schedule on Investment						
36									

Sprint-Florida, Inc.
Number Pooling
Exhibit 1
Cost Drivers

A Ln #	B Description	C Driver	D Year 1	E Year 2	F Year 3	G Year 4	H Year 5
1							
2	Investements Installation and Expenses						
3	LTD - NPAC						
4	Recoverable	NP Dir / Tot LTD NP	98.65%	0.00%	0.00%	0.00%	0.00%
5	Non-Recoverable		1.35%	100.00%	100.00%	100.00%	100.00%
6	Total		100.00%	100.00%	100.00%	100.00%	100.00%
7							
8	SS7 - STP Nat.						
9	Recoverable	N/A	30.76%	0.00%	0.00%	0.00%	0.00%
10	Non-Recoverable		69.24%	100.00%	100.00%	100.00%	100.00%
11	Total		100.00%	100.00%	100.00%	100.00%	100.00%
12							
13	SS7 - SCPs						
14	Recoverable	NP Dir / Tot SCP	30.76%	0.00%	0.00%	0.00%	0.00%
15	Non-Recoverable		69.24%	100.00%	100.00%	100.00%	100.00%
16	Total		100.00%	100.00%	100.00%	100.00%	100.00%
17							
18	SS7 - Incr. NP Nat - Reg A Link						
19	Recoverable	NP Dir / Tot SCP	30.76%	0.00%	0.00%	0.00%	0.00%
20	Non-Recoverable		69.24%	100.00%	100.00%	100.00%	100.00%
21	Total		100.00%	100.00%	100.00%	100.00%	100.00%
22							
23	Switch NP Upgrades						
24	Recoverable	NP Dir / Tot LTD NP	98.65%	0.00%	0.00%	0.00%	0.00%
25	Non-Recoverable		1.35%	100.00%	100.00%	100.00%	100.00%
26	Total		100.00%	100.00%	100.00%	100.00%	100.00%
27							
28	National Pooling Admin.						
29	Recoverable	Direct	100.00%	100.00%	100.00%	100.00%	100.00%
30	Non-Recoverable		0.00%	0.00%	0.00%	0.00%	0.00%
31	Total		100.00%	100.00%	100.00%	100.00%	100.00%
32							
33	Cost Savings						
34	Recoverable	Direct	100.00%	100.00%	100.00%	100.00%	100.00%
35	Non-Recoverable		0.00%	0.00%	0.00%	0.00%	0.00%
36	Total		100.00%	100.00%	100.00%	100.00%	100.00%
37							
38	Customer Notification						
39	Recoverable	N/A	100.00%	100.00%	100.00%	100.00%	100.00%
40	Non-Recoverable		0.00%	0.00%	0.00%	0.00%	0.00%
41	Total		100.00%	100.00%	100.00%	100.00%	100.00%
42							
43	NPAP - Local SMS						
44	Recoverable	N/A	98.65%	0.00%	0.00%	0.00%	0.00%
45	Non-Recoverable		1.35%	100.00%	100.00%	100.00%	100.00%
46	Total		100.00%	100.00%	100.00%	100.00%	100.00%
47							
48	NPAP - SOA						
49	Recoverable	N/A	100.00%	100.00%	100.00%	100.00%	100.00%
50	Non-Recoverable		0.00%	0.00%	0.00%	0.00%	0.00%
51	Total		100.00%	100.00%	100.00%	100.00%	100.00%
52							
53	LTD - Number Administration						
54	Recoverable	Direct	100.00%	100.00%	100.00%	100.00%	100.00%
55	Non-Recoverable		0.00%	0.00%	0.00%	0.00%	0.00%
56	Total		100.00%	100.00%	100.00%	100.00%	100.00%
57							
58	LTD - Operations Support Systems						
59	Recoverable	Direct	100.00%	100.00%	100.00%	100.00%	100.00%
60	Non-Recoverable		0.00%	0.00%	0.00%	0.00%	0.00%
61	Total		100.00%	100.00%	100.00%	100.00%	100.00%
62							
63	LTD - Testing, Training & Provisioning						
64	Recoverable	Direct	100.00%	100.00%	100.00%	100.00%	100.00%
65	Non-Recoverable		0.00%	0.00%	0.00%	0.00%	0.00%
66	Total		100.00%	100.00%	100.00%	100.00%	100.00%
67							

Sprint-Florida, Inc.
Number Pooling
Exhibit 1
Queries Driver by Year
(000) Omitted

A Ln #	B Description	C	D Year 1	E Year 2	F Year 3	G Year 4	H Year 5	I Total
1								
2	**Demand**							
3								
4								
5	Total Sprint SCP Queries		51,231,904					51,231,904
6								
7	Total LTD NP Queries		15,976,960					15,976,960
8								
9	Total NP Direct Queries		15,761,471					15,761,471
10	NP Dir / Tot SCP		30.76%					
11	NP Dir / Tot LTD NP		98.65%					
12								
13	Number of Switches		14					
14								
15								
16								
17								
18								
19								
20								
21								
22								
23								
24								
25								

Sprint-Florida, Inc.
Number Pooling
Exhibit 2
Incremental Support Labor Associated With Number Pooling

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
						1998	1999	2000	2001	2002	2003	2004	2005	2006	
Ln #	First Name	Last Name	Department	NP YRS	NP %	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Total
1															
2	Weighted Annual Salary with Overheads					89,744	92,436								
3															
4	Employee #1		Network Systems	9	25%	22,436	23,109								45,545
5	Employee #2		Network Engineering	4	5%	4,487	4,622								9,109
6	Employee #3		Network Engineering	9	7%	6,282	6,471								12,753
7	Employee #4		Network Operations	5	5%	4,487	4,622								9,109
8	Employee #5		Network Engineering	9	80%	71,795	73,949								145,744
9	Employee #6		Network Engineering	9	30%	26,923	27,731								54,654
10	Employee #7		Network Operations	9	20%	17,949	18,487								36,436
11	Employee #8		Network Planning	9	10%	8,974	9,244								18,218
12	Employee #9		Network Systems	3	40%	35,897	36,974								72,872
13	Employee #10		Customer Service Org.	9	20%	17,949	18,487								36,436
14	Employee #11		Customer Service Org.	9	20%	17,949	18,487								36,436
15	Employee #12		Customer Service Org.	9	30%	26,923	27,731								54,654
16	Employee #13		Network Systems	5	20%	17,949	18,487								36,436
17	Employee #14		Network Operations	3	10%	8,974	9,244								18,218
18	Employee #15		Regulatory Affairs	4	7%	6,282	6,471								12,753
19	Employee #16		Network Planning	9	15%	13,462	13,865								27,327
20	Employee #17		Network Operations	4	15%	13,462	13,865								27,327
21	Employee #18		External Affairs	3	5%	4,487	4,622								9,109
22	Employee #19		INO	9	7%	6,282	6,471								12,753
23	Employee #20		Network Operations	9	15%	13,462	13,865								27,327
24	Employee #21		Regulatory Policy	5	30%	26,923	27,731								54,654
25	Employee #22		Carrier Operations	9	15%	13,462	13,865								27,327
26	Employee #23		Network Operations	3	30%	26,923	27,731								54,654
27	Employee #24		Network Operations	3	20%	17,949	18,487								36,436
28	Employee #25		LNP Network Coordinato	3	60%	53,846	55,462								109,308
29	Employee #26		Network Engineering	1.5	25%	22,436	11,554								33,990
30	Employee #27		INO	9	5%	4,487	4,622								9,109
31	Employee #28		Industry Forums	9	10%	8,974	9,244								18,218
32	Employee #29		Network Executive	3	2%	1,795	1,849								3,644
33	Employee #30		BMG Operations	9	15%	13,462	13,865								27,327
34	Employee #31		CMG Operations	9	10%	8,974	9,244								18,218
35	Employee #32		Network Planning	7	40%	35,897	36,974								72,872
36	Employee #33		Network Engineering	9	20%	17,949	18,487								36,436
37	Employee #34		CLAS	4	20%	17,949	18,487								36,436
38	Employee #35		Regulatory	3	3%	2,692	2,773								5,465
39	Employee #36		Number Administration	9	30%	26,923	27,731								54,654
40	Employee #37		Cost Support	3	5%	4,487	4,622								9,109
41	Employee #38		Number Administration	9	30%	26,923	27,731								54,654
42	Employee #39		SCP Operations	9	10%	8,974	9,244								18,218
43	Employee #40		Number Administration	9	60%	53,846	55,462								109,308
44	Employee #41		Network Operations	9	15%	13,462	13,865								27,327
45	Employee #42		Carrier Operations	9	50%	44,872	46,218								91,090
46	Employee #43		SOE	9	15%	13,462	13,865								27,327
47	Employee #44		Operations	9	20%	17,949	18,487								36,436
48	Employee #45		Information Systems	9	25%	22,436	23,109								45,545
49	Employee #46		Regulatory Affairs	5	7%	6,282	6,471								12,753
50	Employee #47		INO	9	10%	8,974	9,244								18,218
51	Employee #48		Network Executive	3	4%	3,590	3,697								7,287
52	Employee #49		Legal	4	10%	8,974	9,244								18,218
53			Wages and Benefits			881,283	896,167	-	-	-	-	-	-	-	1,777,450
54			Furniture, Fixtures and PC's			27,849	28,319	-	-	-	-	-	-	-	56,167
55			Buildings			31,938	31,530	-	-	-	-	-	-	-	63,467
56			Total NP Common Overhead - Sprint LTD			941,069	956,015						-	-	1,897,085
57															
58						Please Note: Estimated furniture, fixtures and PC equals 3.16% of Wages and Benefits										
59						Estimated monthly building expense equals $ 272 per person.										
60															
61															
62							1998	1999							
63	Florida Percentage				46.77%										
64															
65	Incremental Support Labor for Recovery Period						440,138	447,128							
66															
67	Two Year Total						887,266								
68															
69															
70															
71															
72															
73															

Sprint-Florida, Inc.
Number Pooling
Apportionment Between Services
Exhibit 3
(000) Omitted

A	B	C	D	E	F	G
Ln #	Cost Element	Function	Required Modification	Part 32 Account	Dollar	Excl. From LTD Recov.
1	**Investments**					
2	LTD - NPAC	N/A	N/A	#1	[redacted]	0.00%
3	SS7 - STPs	N/A	N/A	#1		0.00%
4	SS7 - SCPs	N/A	N/A	#1		0.00%
5	SS7 - Link	N/A	N/A	#1		0.00%
6	Switch NP Upgrades	Right-to-use fees for NP software and hardware for memory expansions and SP hardware additions.	Addition of NP functionality	2212		0.00%
7	National Pooling Admin.	N/A	N/A			0.00%
8	Cost Savings	N/A	N/A	2212		0.00%
9	Customer Notification	N/A	N/A	2212		0.00%
10	NPAP - Local SMS	N/A	N/A	#1		0.00%
11	NPAP - SOA	N/A	N/A	#1		0.00%
12	LTD - Number Administration	N/A	N/A	2212		0.00%
13	LTD - Operations Support System	Upgrades to Operations Support Systems for Number Pooling (NP)	Addition of NP functionality			0.00%
14	LTD - Testing, Training & Provisk	N/A	N/A			0.00%
15	**Total Investment**				277	
16						
17						
18	**Expenses**					
19	LTD - NPAC	Allocation portion of Sprint's NPAC charges.	Allocated expenses from NeuStar	6532	20	1.35%
20	SS7 - STPs	N/A	N/A	6532	-	0.00%
21	SS7 - SCPs	N/A	N/A	6532	-	0.00%
22	SS7 - Link	N/A	N/A	6532	-	0.00%
23	Switch NP Upgrades	Right-to-use fees for NP software and hardware for memory expansions and SP hardware additions.	Addition of NP functionality	6212	67	1.35%
24	National Pooling Admin.	N/A	N/A		-	0.00%
25	Cost Savings	Cost savings associated with NPA splits.	Expense Reduction	6212	(187)	0.00%
26	Customer Notification	N/A	N/A	6212	-	0.00%
27	NPAP - Local SMS	N/A	N/A	6532	-	0.00%
28	NPAP - SOA	N/A	N/A	6532	-	0.00%
29	LTD - Number Administration	Identify donate and receive numbers from the Pooling Administrator.	Addition of NP functionality	6212	262	0.00%
30	LTD - Operations Support System	Identify donate and receive numbers from the Pooling Administrator and provision for call routing.	Addition of NP functionality	6724	60	0.00%
31	LTD - Testing, Training & Provisic	Sprint's expenses to test, train and provision NP. (Identify, donate, receive and provision)	NP Implementation expense.		80	0.00%
32	**Total Expense**				302	
33						
34						
35						
36						
37						
38	Please Note: #1	These investments are held by Sprint United Management Company. If they				
39		were held by a regulated entity they would be booked to a 2212 account.				
40						

Sprint-Florida, Inc.
Number Pooling
Apportionment Between Services
Exhibit 3
(000) Omitted

A	B	H	I	J
Ln #	Cost Element	NP Incl. Recovery	Assignment Method	Alloc. Basis
1	**Investments**			
2	LTD - NPAC	0.00%	N/A	N/A
3	SS7 - STPs	0.00%	N/A	N/A
4	SS7 - SCPs	0.00%	N/A	N/A
5	SS7 - Link	0.00%	N/A	N/A
6	Switch NP Upgrades	0.00%	Assig. to NP. Alloc. based on Demand	NPEU / Tot LTD NP
7	National Pooling Admin.	0.00%	N/A	N/A
8	Cost Savings	0.00%	N/A	N/A
9	Customer Notification	0.00%	N/A	N/A
10	NPAP - Local SMS	0.00%	N/A	N/A
11	NPAP - SOA	0.00%	N/A	N/A
12	LTD - Number Administration	0.00%	N/A	N/A
13	LTD - Operations Support Systen	0.00%	Direct	Direct
14	LTD - Testing, Training & Provisi	0.00%	N/A	N/A
15	**Total Investment**			
16				
17				
18	**Expenses**			
19	LTD - NPAC	98.65%	Assig. to NP. Alloc. based on Demand	NP DIR / Tot LTD NP
20	SS7 - STPs	0.00%	N/A	N/A
21	SS7 - SCPs	0.00%	N/A	N/A
22	SS7 - Link	0.00%	N/A	N/A
23	Switch NP Upgrades	98.65%	Assig. to NP. Alloc. based on Demand	NP DIR / Tot LTD NP
24	National Pooling Admin.	100.00%	N/A	N/A
25	Cost Savings	100.00%	Direct	Direct
26	Customer Notification	0.00%	N/A	N/A
27	NPAP - Local SMS	0.00%	N/A	N/A
28	NPAP - SOA	0.00%	N/A	N/A
29	LTD - Number Administration	100.00%	Direct	Direct
30	LTD - Operations Support Systen	100.00%	Direct	Direct
31	LTD - Testing, Training & Provisi	100.00%	Direct	Direct
32	**Total Expense**			
33				
34				
35				
36				
37				
38	**Please Note:**			
39				
40				

Sprint-Florida, Inc.
Number Pooling
Implementation Cost
Exhibit 4

A	B	C	D	E	F	G	H	I	J	K	L	M
Row	Functional Area	FCC 01-362 P 44 NP Specific Criteria	Process Required	Reason for Process	Total Cost	1998 Cost	1999 Cost	2000 Cost	2001 Cost	2002 Cost	2003 Cost	2004 Cost
1	Audit Of Number Inventory To Identify Pooled Blocks											
	Number Administration/Consumer/ Business/Carrier - Number Inventory Audit	Identify Donate & Receive	Provisioning labor associated with performing the audit of the number inventory to identify and donate pristine and contaminated pooled blocks to the Pooling Administrator. This includes a comparison between the switch, customer record, and the telephone number inventory.	To ensure proper classification of numbers for 1,000 block utilization reporting to pooling administrator. The audit process is performed prior to each report provided to the Pooling Administrator.	$83,996	$0	$83,996	$0	$0	$0	$0	
2												
3	Number Pool Analysis Report Creation											
	Number Administration - Production of reports for the Number Pooling Administrator.	Identify Donate & Receive	Produce number inventory analysis reports to identify Forecast Reports/Block Donations/Block Requests to be provided to the Pooling Administrator, LERG and Translations.	To ensure that the forecasts reports and all blocks donated and/or requested are identified to the Pooling Administrator correctly and all internal/external systems have been notified of the additions/reduction.	$48,016	$0	$0	$0	$48,016	$0	$0	$0
4												
5	Contaminated Number Porting For Pooled Blocks											
	Consumer/Business/ Carrier - Creation of service orders to port contaminated numbers within donated blocks	Identify Donate & Receive	Create service orders to port the working telephone numbers back to Sprint within the blocks donated to the Number Pool Administrator in the provisioning process of pooled numbers.	Porting and testing of the numbers back to Sprint within contaminated donated blocks.	$39,411	$0	$0	$0	$39,411	$0	$0	$0
6												
7	Total Included				$171,423	$0	$83,996	$0	$87,427	$0	$0	$0
8												

Sprint-Florida, Inc.
Number Pooling
OSS Enhancements
Exhibit 5

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
Row	OSS System	FCC 01-362 P	System Function	Modifications Required	Reason for	Cap/Ex	Total Cost	1998 Cost	1999 Cost	2000 Cost	2001 Cost	2002 Cost	2003	2004
1	Telephone Number Assignment System (CODARS)	Identify, Donate Receive	Dial office administration functions and telephone number inventory	Creation of the NRUF reports for number utilization and forecast	Creation of the NRUF reports	Capital								
2	CODARS (continued)	Identify, Donate Receive, Create & Populate Database, Procedures for Querying, Routing Calls	Dial office administration functions and telephone number inventory	Client support for system planning, development, testing, and implementation for number pooling	Provisioning process to support number pooling enhancements	Expense	$17,272	$0	$0	$17,272	$0	$0	$0	$0
3	Total Included													
4														
5	Total Capital													
6	Total Expense						$17,272	$0	$0	$17,272	$0	$0	$0	$0
7	Total Included													
8														

Sprint-Florida, Inc.
Number Pooling
Testing, Training & Provisioning
Exhibit 6

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
Row	OSS/Imp/Network System Name	FCC 01-362 P 44 NP Specific Criteria	System Function	Modifications / Process Required	Reason for Modification	Cap/Exp	Total Cost	1998 Cost	1999 Cost	2000 Cost	2001 Cost	2002 Cost	2003 Cost	2004 Cost
1	Testing and Development The administration of the "manual" process related enhancements associated with the implementation of number pooling	Identify, Donate Receive, Create & Populate Database, Procedures for Querying, Routing Calls		Development of testing, deployment, coordination, and support processes for the implementation of number pooling	Ensure the accurate implementation of number pooling.	Expense	$42,026	$16,343	$25,682					
5	Total Included					Expense	$42,026	$16,343	$25,682	$0	$0	$0	$0	$0

Sprint-Florida, Inc.
Number Pooling
Exhibit 7
Cost Savings
(000) Omitted

A	B	C	D	E	F	G		H	I	J	K	L	M	N	O	P	Q
Ln #	Description	ACL's	# NXX's	# HOSTS	Exhaust Date	Source/Calc.		Cost	2002	2003	2004	2005	2006	2007	2008	2009	Total
1																	
2	Cost of Money					Input		12.26%									
3	NPA's																
4	FL 904	344	1	1	2002	Input	$	58,636	3,491	7,189	7,189	3,491					21,359
5	FL 386	15528	1	1	2018	Input	$	64,277									-
6	FL 941	415853	16	12	2003	Input	$	578,653		34,446	70,943	70,943	34,446				210,778
7	Total					=SUM(Ln4:Ln7)		701,565	3,491	41,635	78,132	74,433	34,446	-	-	-	232,137
8																	
9	Year								-0.5	0.5	1.5	2.5	3.5	4.5	5.5	6.5	
10	P/F Present Value Factor							12.26%	1.05953	0.94382	0.84074	0.74892	0.66713	0.59427	0.52937	0.47156	
11	Present Value					=Ln7*Ln10			3,698	39,296	65,688	55,745	22,980	-	-	-	187,408
12																	
13	Cost Savings - For One Year Recovery					=Ln11 col Q				187,408							187,408
14																	
15																	
16						Please Note:		Reflects a three year exhaust deferral time period associated with the implementation of Number Pooling.									

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cost recovery and allocation issues for number pooling trials in Florida.	DOCKET NO. 001503-TP ORDER NO. PSC-03-1270-PAA-TP ISSUED: November 10, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING SPRINT'S PETITION FOR COST RECOVERY

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. BACKGROUND

Thousands-block number pooling is the process by which telephone companies share a pool of telephone numbers that have the same central office code. Historically, telephone numbers have been assigned to service providers in blocks of 10,000 numbers. Thousands-block number pooling allows phone numbers to be allocated to service providers in blocks of 1,000, instead of the historical 10,000 number blocks, which conserves numbers and provides for more efficient number utilization.

Attachment 15

DOCUMENT NUMBER-DATE
11194 NOV 10 03
FPSC-COMMISSION CLERK

By Federal Communications Commission (FCC) Order No. 99-249[1], released September 15, 1999, the FCC granted this Commission authority to conduct mandatory thousands-block number pooling trials in Florida. The Order also addressed number pooling cost recovery by stating:

> We further require that the Florida Commission determine the method to recover the costs of the pooling trials. The Florida Commission must also determine how carrier-specific costs directly related to pooling administration should be recovered.

FCC 99-249 at ¶ 17. Since receiving authority to implement state number pooling trials, this Commission has taken a pro-active stance regarding number conservation and ordered implementation of the following number pooling trials:

Metropolitan Statistical Area	Area Code	Implementation Date of Number Pooling	Incumbent Local Exchange Company
Ft. Lauderdale	954 and 754	January 22, 2001	BellSouth
West Palm Beach	561	February 5, 2001	BellSouth
Jacksonville	904	April 2, 2001	BellSouth and ALLTEL
Keys Region*	305	May 28, 2001	BellSouth
Daytona Beach	386 (used to be 904)	July 16, 2001	BellSouth

[1] Order, CC Docket No. 96-98, Order No. FCC 99-249, released September 15, 1999, In the Matter of the Florida Public Service Commission Petition to the Federal Communications Commission for Expedited Decision for Grant of Authority to Implement Number Conservation.

Metropolitan Statistical Area	Area Code	Implementation Date of Number Pooling	Incumbent Local Exchange Company
Ft. Pierce-Port St. Lucie	772 (used to be 561)	September 17, 2001	BellSouth and Indiantown
Tampa	813	January 14, 2002	Verizon
Sarasota-Bradenton	941 and 239	February 11, 2002	Verizon and Sprint

* The Keys area is not a Metropolitan Statistical Area.

This Commission has taken an aggressive approach to number conservation policies, in particular number pooling, which is providing great benefits. NeuStar, Inc., the current number pooling administrator is now keeping a record as to how many 10,000 number blocks (NXXs) are saved due to number pooling. Of the total 320 NXXs (or 3,200,000 numbers) saved by number pooling in Florida to date, 261 NXXs (or 2,610,000 numbers) resulted from the state mandated pooling areas, rather than from the federally-mandated number pooling trials. Number pooling has also had a large impact on postponing area code (NPA) relief in a number of these areas. The following table shows the impact on areas where state number pooling has taken place.

Area Code	Number of NXXs (10,000 Number Blocks) Saved by Pooling	Estimated Exhaust Date of Area Code as of June 2, 2003	Number of Quarters that Exhaust Date has moved out
239	19	4th Quarter 2017	0
305 (Keys)	7	3rd Quarter 2005	7 Quarters
386	16	1st Quarter 2025	17 Quarters
561	52	2nd Quarter 2013	21 Quarters

Area Code	Number of NXXs (10,000 Number Blocks) Saved by Pooling	Estimated Exhaust Date of Area Code as of June 2, 2003	Number of Quarters that Exhaust Date has moved out
772	37	4th Quarter 2026	0
813	29	4th Quarter 2014	25 Quarters
904	28	4th Quarter 2018	30 Quarters
941	33	1st Quarter 2018	27 Quarters
954/754	40	1st Quarter 2019	0

In Order No. FCC 00-104[2], released March 31, 2000, the FCC stated:

> States implementing pooling must also ensure that they provide carriers with an adequate transition time to implement pooling in their switches and administrative systems. In addition, because our national cost recovery plan cannot become effective until national pooling implementation occurs, states conducting their own pooling trials must develop their own cost recovery scheme for the joint and carrier-specific costs of implementing and administering pooling in the NPA in question.

FCC 00-104 at ¶ 171. The Order further states:

> Costs incurred by carriers to implement state-mandated thousands-block number pooling are intrastate costs and should be attributed solely to the state jurisdiction.

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[2] Report and Order and Further Notice of Proposed Rule Making, CC Docket No. 99-200, Order No. FCC 00-104, released March 31, 2000, In the Matter of Numbering Resource Optimization.

FCC 00-104 at ¶ 197.

By Order No. PSC-00-0543-PAA-TP, issued May 30, 2000, in Docket No. 981444-TP, In Re: Number Utilization Study: Investigation into Number Conservation Measures, this Commission found it appropriate to order the mandatory implementation of thousand-block number pooling for all Local Number Portability-capable carriers in the 954, 561, and 904 area codes. The Order was subsequently protested by a number of parties[3] (Joint Petitioners). Specifically, the Joint Petitioners protested and sought a hearing regarding only the portions of the PAA order that related to: (1) mandatory implementation of thousand-block pooling; (2) thousand-block pooling software release and implementation dates; and (3) designation of a pooling administrator. The Joint Petitioners filed an Offer of Settlement with this Commission on April 11, 2000 which included verbiage addressing number pooling cost recovery which stated:

> In view of the potential ultimate impact of number pooling cost recovery on Florida customers, the Commission should address cost recovery. Accordingly, the Revised Plan requires that the Commission open a docket in accordance with the FCC mandate for the purpose of determining the amount of the costs of number pooling and the method by which they will be recovered. However, in the spirit of moving forward, the Joint Petitioners are willing to proceed now with all aspects of the implementation of number pooling pursuant to the Revised Plan with cost recovery being determined just so long as the Commission has acknowledged the

[3] ALLTEL Communications, Inc., AT&T Communications of the Southern States, Inc., BellSouth Mobility, Inc., BellSouth Telecommunications, Inc.,Florida Cable Telecommunications Association, Inc.,Global Naps, Inc.,GTE Service Corporation, Intermedia Communications, Inc., MCI WorldCom, Inc., Media One Florida Telecommunications, Inc., Sprint Spectrum L.P., Sprint Communications Company Limited Partnership, Sprint-Florida Incorporated.

need for cost recovery and has committed to starting the cost recovery process.

By Order No. PSC-00-1046-PAA-TP, issued May 30, 2000, in Docket No. 981444-TP, In Re: Number Utilization Study: Investigation into Number Conservation Measures, this Commission approved the Joint Petitioners' Offer of Settlement and thereby acknowledged the need for cost recovery and agreed to open a docket to address the cost recovery process. Our staff subsequently opened Docket No. 001503-TP on September 29, 2000 to address number pooling cost recovery.

On December 12, 2000, our staff conducted a workshop to solicit input from the industry regarding cost recovery and allocation mechanisms for number pooling trials in Florida. The post-workshop comments focused mainly on whether cost recovery should be delayed until the FCC makes a determination as to whether state-mandated pooling costs should be rolled into the federal cost recovery mechanism, or whether this Commission should proceed with the cost recovery. However, the Office of Public Counsel comments contended that price cap regulation in Florida already provides cost recovery for the local exchange companies, and there is no need for a local rate surcharge, as the local exchange industry argues, nor is a surcharge on local rates authorized by the Florida Statutes.

In Order No. FCC 00-429[4], released December 29, 2000, the FCC concluded that the amount and detail of the cost data that had been provided in response to Order No. FCC 00-104 was insufficient for it to determine the amount or magnitude of the costs associated with thousands-block number pooling, and sought additional comments

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[4] Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200, CC Dockets Nos. 96-98 and 99-200, Order No. FCC 00-429, released December 29, 2000, In the Matter of Numbering Resource Optimization; Petition of Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, 717.

and cost studies that quantify shared industry and direct carrier-specific costs of thousands-block number pooling. Id. at ¶ 180.

On February 13, 2001, this Commission submitted comments to the FCC regarding Order No. FCC 00-104, stating that the FCC should give state commissions the option to defer state-mandated thousands-block number pooling cost recovery until national thousands-block number pooling is implemented and a federal cost recovery mechanism is put in place. At that time, the costs of the state-mandated thousands-block number pooling could be rolled into one recovery mechanism. This would result in having only one number pooling charge on a customer's bill, which would cause less confusion for the customers.

On December 28, 2001, the FCC released Order No. 01-362[5] which addressed federal cost recovery for national thousands-block number pooling, and re-affirmed that states that have conducted pooling trials should establish cost recovery mechanisms for costs incurred by carriers participating in such trials. Specifically, Order No. FCC 01-362 stated:

> In this Third Report and Order, we direct states implementing thousands-block number pooling under delegated authority to commence cost recovery actions for state-mandated thousands-block number pooling trials. We applaud the efforts that state commissions have made in implementing pooling trials within their respective jurisdictions, and we believe that the costs should be recovered within those jurisdictions that have enjoyed the benefits of such trials.

FCC 01-362 at ¶ 25.

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[5] Third Report and Order and Second Order on Reconsideration, CC Dockets Nos. 96-98 and 99-200, Order No. FCC 01-362, released December 28, 2001, In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability.

The FCC also acknowledged the argument proffered by some commentors, including this Commission, that state costs should be combined with national costs, and all thousands-block number pooling costs should be recovered in the federal jurisdiction. Id. at ¶ 26. The FCC expressly rejected this proposal, stating that ". . . [w]e believe that the entire nation should not be required to bear the costs incurred for the benefit of a particular state." Id. at ¶ 27. Order No FCC 01-362 further stated:

> We now direct states that have exercised delegated authority and implemented thousands-block number pooling to likewise commence cost recovery procedures for these state-specific costs. We agree with BellSouth that any state that has ordered implementation of pooling in advance of the national rollout is required to implement a cost recovery scheme.

FCC 01-362 at ¶ 28.

By Order No. PSC-02-0466-PAA-TP, issued April 5, 2002, in Docket No. 001503-TL, In Re: Cost recovery and allocation issues for number pooling trials in Florida,[6] we ordered that carriers shall be allowed the opportunity to seek recovery of their costs associated with state-mandated pooling trials. We further ordered that regulated carriers seeking recovery shall file a petition with us for a cost recovery mechanism that meets federal and state law, including all supporting documents related to their cost analysis.

On September 30, 2002, Sprint filed a petition for recovery of its carrier-specific costs ($1,515,000) associated with state-mandated number pooling trials. This Order addresses Sprint's cost recovery petition for state-mandated number pooling trials.

By Order No. PSC-03-1096-PAA-TP, issued October 2, 2003, we considered BellSouth's August 5, 2002 petition for recovery of its carrier-specific costs for state-mandated number pooling trials.

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[6] Consummating Order PSC-02-0590-CO-TP, issued April 30, 2002.

We approved all BellSouth's state-mandated number pooling implementation costs, with the exception of BellSouth's salaried costs. In that Order, we also modified the recommended notice to include the caveat that the company was to work with our staff on its bill-insert notice to ensure that (1) the language would be adequate for customers' understanding, (2) the notice would fit on the bill so no additional costs would be incurred, and (3)the end-user charge would be stated as "One-Time Area Code Conservation Charge."

II. JURISDICTION

We have federal and state law authority to act regarding number pooling issues. Section 251 (e) of the Telecommunications Act of 1996 (Act) permits the FCC to delegate authority to state commissions to administer telephone numbering. Section 251 (e) states that:

> (e) Numbering Administration.--
>
> (1) Commission authority and jurisdiction - 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.

Moreover, Section 251 (e)(2), provides the authority to collect for the cost of number pooling. Section 251 (e)(2) states:

> (2) Costs - The cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications

> carriers on a competitively neutral basis as determined by the Commission.

By Order No. FCC 99-249, released September 15, 1999, the FCC acknowledged the need to delegate number conservation authority to this Commission. In that Order, the FCC states that:

> We recognize that the area code situation in Florida is critical, with nine new area codes having been added since 1995, six of which may already be in jeopardy. In light of this extreme situation and in order to empower the Florida Commission to take steps to make number utilization more efficient, we herein grant significant additional authority to the Florida Commission.

Id. at ¶ 5. Further, pursuant to Section 251(e), the FCC delegated authority to conduct number pooling trials. In that Order, the FCC states that:

> We therefore grant authority to the Florida Commission to conduct mandatory thousands-block number pooling trials in Florida.

Id. at ¶ 13. Pursuant to Section 251(e)(2), the FCC delegated its obligation to provide for cost recovery for the number pooling trials. Specifically, the FCC states in the Order that:

> We further require that the Florida Commission determine the method to recover the costs of the pooling trials. The Florida Commission must also determine how carrier-specific costs directly related to pooling administration should be recovered. The Commission has tentatively concluded that thousands-block number pooling is a numbering administration function, and that section 251(e)(2) authorizes the Commission to provide the

> distribution and recovery mechanisms for the interstate and intrastate costs of number pooling. We conclude that inasmuch as we are hereby delegating numbering administration authority to the Florida Commission, the Florida Commission must abide by the same statute applicable to this Commission, and, therefore, ensure that costs of number pooling are recovered in a competitively neutral manner.

Id. at ¶ 17. Thus, pursuant to the Act and Order No. FCC 99-249, we have been delegated authority to act under federal law regarding administering telephone numbering issues.

We also have state law authority to act regarding numbering issues. Specifically, the state law authority over numbering policies is granted through Sections 364.01(4)(a), and 364.16(14) Florida Statutes. Section 364.01(4)(a) states:

> The commission shall exercise its exclusive jurisdiction in order to:
>
> (a) Protect the public health, safety, and welfare by ensuring that basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices.

Having an adequate supply of numbers available for the provision of telecommunications service is essential to ensuring that basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices.

> Section 364.16(4), Florida Statutes states:
>
> In order to assure that consumers have access to different local exchange service providers without being disadvantaged, deterred, or inconvenienced by having to give up the consumer's existing local telephone number, all providers of local exchange services must have access

> to local telephone numbering resources and assignments on equitable terms that include a recognition of the scarcity of such resources and are in accordance with national assignment guidelines.

Section 364.16(4), Florida Statutes, acknowledges the importance of numbering issues. This section provides for local number portability because of the scarcity of numbering resources and the need to protect and make available to all local providers, access to numbering resources. Thus, it appears clear from this language that we are charged with ensuring the scarce numbering resources in Florida are protected in accordance with the national assignment guidelines. Although, this subsection of the statute specifically relates to local number portability, the principles acknowledged within this section should and can be applied to our general obligation to ensure the availability of basic local telecommunications service to Florida consumers. Under Florida law, we have the authority and obligation to take reasonable measures to ensure the protection of the scarce numbering resources within the State of Florida. Thus, working in conjunction with the Federal delegation of authority over number pooling and the cost associated with the number pooling trials, state law also provides authority for us to act consistent with ensuring the protection of the scarce numbering resources within the State of Florida. The U.S. Supreme Court recognized that when federal and state legislative directives are intertwined, state agencies need to act in accordance with, if not at the direction of, Congress. See FERC v. Mississippi, 456 U.S. 742 (1982). Therefore, we find that the FCC's specific delegation of authority to us to implement number pooling and address related cost recovery, in conjunction with Florida Legislator's apparent intent that we act in this area, establishes the basis for our ability to act in this matter.

We find that we have authority regarding cost recovery of state-mandated pooling trials granted pursuant to Section 251(e) of the Telecommunications Act of 1996, and Sections 364.01, and 364.16(4), Florida Statutes.

III. COMPLIANCE WITH ORDER NO. PSC-02-0466-PAA-TP

As stated in the Background, by Order No. PSC-02-0466-PAA-TP, we allowed carriers the opportunity to seek recovery of costs associated with state-mandated number pooling trials. Specifically, the Order stated:

> Carriers seeking recovery of carrier-specific costs shall make a filing with this Commission detailing the means by which they propose to recover their costs consistent with FCC guidelines and in accordance with federal and state statutes.

On September 30, 2002, Sprint filed a petition for recovery of its carrier-specific costs ($1,515,000) associated with state-mandated number pooling trials. Upon our review and analysis of Sprint's petition, and based on Order No. PSC-02-0466-PAA-TP, we find that Sprint's cost recovery petition for state-mandated number pooling trials complies with the filing requirements established pursuant to Order No. PSC-02-0466-PAA-TP.

IV. AMOUNT TO BE RECOVERED

The FCC, in FCC Order 01-362, detailed a three-prong test to determine whether number pooling costs are extraordinary. Specifically, the Order stated:

> ...to be eligible for the extraordinary recovery we establish above, thousands-block number pooling costs must satisfy each of three criteria identified in the LNP proceedings. First, only costs that would not have been incurred "but for" thousands-block number pooling are eligible for recovery. Second, only costs incurred "for the provision of" thousands-block number pooling are eligible for recovery. Finally, only "new" costs are eligible for recovery. To be eligible for extraordinary recovery, carriers' thousands-block number pooling shared industry and carrier-specific

> costs directly related to thousands-block number pooling must satisfy all three of these criteria.

FCC Order No. 01-362 at ¶43. The FCC interpreted the first two criteria, the "but for" test and the "for the provision of" test to mean that only the demonstrably incremental costs of thousands-block number pooling may be recovered. FCC 01-362 at ¶44. The third criteria regarding "new" costs was interpreted to mean that costs incurred prior to the implementation of thousands-block pooling are ineligible for recovery because they are embedded investments already subject to recovery through standard mechanisms. FCC 01-362 at ¶46.

By Order No. PSC-02-0466-PAA-TP, we ordered that carriers seeking recovery of carrier-specific costs shall show that:

1) pooling results in a net cost increase rather than a cost reduction;
2) the costs would not have been incurred "but for" and "for the provision of" thousands-block number pooling;
3) the costs are "new" costs;
4) the costs for which recovery is requested are Florida-specific costs not related to national number pooling; and
5) the costs will be recovered on a competitively neutral basis in accordance with Section 251(e)(2) of the Telecommunications Act of 1996.

Order No. PSC-02-0466-PAA-TP at p. 10.

Sprint's September 30, 2002 petition included the following assertions in calculating the costs associated with state-mandated number pooling trials:

a) Sprint proposes to recover its carrier-specific costs through a one-time surcharge per access line, excluding Lifeline access lines.
b) Pooling results in a net cost increase, rather than a cost reduction for Sprint. The costs included in the calculation are "new" costs and are Florida-specific costs not related to national number pooling.

c) Sprint has utilized the same Local Number Portability cost recovery methodology used in the FCC filing in preparing its cost recovery study for the pooling trials in Florida.
d) Recovery of investments and expenses within the revenue requirement include prior year expenditures from 1998 through 2001 and cost savings for 2002 though 2006.
e) The labor costs include activities associated with number pooling began in 1998 to assure successful implementation of all necessary processes and procedures. These costs were not included in Sprint's federal number pooling cost recovery filing which amounts to $3,441,057.
f) Sprint's total revenue requirement for number pooling implementation in Florida is $1,515,000. As of January, 2003, Sprint had approximately 2,115,000 access lines. The revenue requirement per line is $0.72.

The FCC also required each carrier seeking number pooling cost recovery to estimate the cost savings experienced by postponing area code relief because of the implementation of number pooling. FCC 00-104 at ¶226. In its petition, Sprint stated that state-mandated pooling trials have postponed area code relief in its pooling areas which saved Sprint approximately $187,408. Sprint followed FCC guidelines and deducted this amount from the total costs requested for implementing state-mandated pooling trials.

After careful examination of Sprint's cost recovery petition and considering our previous decision in Order No. PSC-03-1096-PAA-TP, we find that salaried labor costs shall be excluded from consideration when determining state-mandated number pooling cost recovery.

In its petition, Sprint states that it began working on implementing state-mandated number pooling trial processes and procedures in 1998. In response to Staff's Interrogatory #13, Sprint states:

> The labor costs listed in Exhibit 2 relate to the state number pooling trials because these activities associated with number pooling began in

> 1998 in order to assure successful implementation of all necessary processes and procedures.

Sprint's petition includes labor costs of $440,138 for 1998 and $447,128 for 1999. Per FCC 01-362, the third part of the three-prong test for recovery of number pooling implementation costs is that the costs must be "new" costs. Id. at ¶ 46. The FCC further states:

> Costs incurred prior to the implementation of thousands-block number pooling are ineligible for recovery because they are embedded investments already subject to recovery through standard mechanisms. Thus, permitting recovery of these costs again through this extraordinary mechanism would amount to double recovery. Costs are not "new," and thus are ineligible for extraordinary treatment as thousands-block number pooling charges, if they previously were incurred, are already being recovered under ordinary recovery mechanisms, or are already being recovered thorough the number portability end-user charge or query charge.

(footnotes omitted) FCC 01-362 at ¶ 46.

Sprint's petition included $756,190 of salary labor costs that were incurred prior to this Commission obtaining authority from the FCC to order state-mandated number pooling trials in September 1999. The recovery of pooling costs that are not considered "new", as defined by the FCC, are not eligible for recovery. As Sprint incurred these labor costs prior to Florida obtaining authority to mandate state number pooling trials, these costs shall be disallowed for recovery purposes.

Sprint included a total of $887,266 of salaried labor in its cost recovery petition. While we find that $756,190 shall be disallowed for recovery purposes since the costs were incurred prior to Florida obtaining authority to mandate number pooling trials, we also find that the entire amount ($887,266) shall be

disallowed based on the argument that salaried labor costs are not "incremental" in nature. In our opinion, these costs would have been incurred whether these salaried employees were working on number pooling or something else. This proposed disallowance is consistent with our vote regarding BellSouth's petition for number pooling cost recovery.

We find that Sprint has not demonstrated that it had to create any new positions to implement state-mandated number pooling trials, and has not shown that these salaried employees could have been terminated or laid off had the number pooling function not been imposed.

We are charged with determining whether Sprint's state pooling costs reasonably meet the standards set forth in Order No. FCC 01-362. In ¶ 28 of Order FCC 01-362, the FCC states:

> If, after reviewing carrier cost submissions, states determine in accordance with Section 251(e)(2) and the Commission's analysis here and in the *First Report and Order* that carriers have incurred little or no recoverable carrier-specific costs directly related to state thousands-block number pooling trials (i.e., incremental costs directly attributable to thousands-block number pooling), they should make affirmative findings to that effect.

Thus, we affirmatively find that the salaried labor costs Sprint included in its petition are not incremental costs which is consistent with the affirmative find made regarding BellSouth's cost recovery petition.

Therefore, we find that the $887,266 of salaried labor costs of Sprint employees shall be excluded when determining the amount of recoverable number pooling costs subject to recovery because Sprint has not demonstrated that it has met its obligation using the "but for" prong test of the FCC and included costs prior to FCC's delegation of authority to this Commission. However, Sprint shall be allowed to recover the remaining carrier-specific costs of $627,734 associated with implementing state-mandated pooling

trials, which consists of pooling administration costs, SS7 and OSS upgrades, and incremental investment and installation costs.

V. HOW COSTS SHOULD BE RECOVERED

We agree with the FCC position that all subscribers will benefit from number pooling. Order FCC 01-362 states:

> . . . all carriers and subscribers will benefit from national thousands-block number pooling to the extent that it postpones or avoids area code relief and ultimately the replacement of the existing NANP.

Id. at ¶ 34. For this reason, costs of federally-mandated number pooling would be shared and borne by all end-user lines in the United States. To avoid disproportionate impacts from combination of federal and state cost recovery, Sprint's carrier-specific costs associated with state-mandated number pooling trials shall be borne by all Sprint's Florida end-user lines.

According to Sprint's petition, Sprint had approximately 2,115,000 end-user lines in Florida as of January, 2003, which would result in an approximate $0.30 ($627,734/2,115,000 end-user lines) one-time end-user charge.

We find that Sprint shall use its Florida end-user lines of customers of record as of June 30, 2003, excluding Lifeline access lines, to calculate the exact charge. We find that equivalency factors regarding end-user lines shall be the same as those used for local number portability cost recovery. Furthermore, we find that Sprint shall submit its final calculation of the end-user line charge to our staff at least 30 days prior to putting any assessment on customer bills for our staff's review. We also find that our staff shall be allowed to approve the calculation of the final assessment administratively; however, our staff shall bring any material difference between the estimated one-time charge and the final assessment before us for approval.

VI. NOTICE TO CUSTOMERS

We find that Sprint shall work with our staff on its bill-insert notice to ensure the notice language is adequate for customers' understanding, and fit on the bill so that no additional charges would be incurred. The state number pooling implementation charge shall be referred to as "One-Time Area Code Conservation" charge. We also find that Sprint shall provide a toll free phone number for customers who have questions concerning this charge, and have service representatives available who can respond to questions regarding Florida number pooling.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Sprint-Florida, Incorporated's Petition for Cost Recovery is granted in part as set forth in the body of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 10th Day of November, 2003.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

PAC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 1, 2003.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cost recovery and allocation issues for number pooling trials in Florida.	DOCKET NO. 001503-TP ORDER NO. PSC-03-1096-PAA-TP ISSUED: October 2, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING IN PART BELLSOUTH'S PETITION FOR COST RECOVERY

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

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Attachment 16

DOCUMENT NUMBER-DATE
09513 OCT-2 8
FPSC-COMMISSION CLERK

I. BACKGROUND

Thousands-block number pooling is the process by which telephone companies share a pool of telephone numbers that have the same central office code. Historically, telephone numbers have been assigned to service providers in blocks of 10,000 numbers. Thousands-block number pooling allows phone numbers to be allocated to service providers in blocks of 1,000, instead of the historical 10,000 number blocks, which conserves numbers and provides for more efficient number utilization.

By Federal Communications Commission (FCC) Order No. 99-249[1], released September 15, 1999, the FCC granted the Florida Public Service Commission (FPSC or Commission) authority to conduct mandatory thousands-block number pooling trials in Florida. The Order also addressed number pooling cost recovery by stating:

> We further require that the Florida Commission determine the method to recover the costs of the pooling trials. The Florida Commission must also determine how carrier-specific costs directly related to pooling administration should be recovered.

FCC 99-249 at ¶17. Since receiving authority to implement state number pooling trials, this Commission has taken a pro-active stance regarding number conservation and ordered implementation of the following number pooling trials:

[1] Order, CC Docket No. 96-98, Order No. FCC 99-249, released September 15, 1999, In the Matter of the Florida Public Service Commission Petition to the Federal Communications Commission for Expedited Decision for Grant of Authority to Implement Number Conservation.

Metropolitan Statistical Area	Area Code	Implementation Date of Number Pooling	Incumbent Local Exchange Company
Ft. Lauderdale	954 and 754	January 22, 2001	BellSouth
West Palm Beach	561	February 5, 2001	BellSouth
Jacksonville	904	April 2, 2001	BellSouth and ALLTEL
Keys Region*	305	May 28, 2001	BellSouth
Daytona Beach	386 (used to be 904)	July 16, 2001	BellSouth
Ft. Pierce-Port St. Lucie	772 (used to be 561)	September 17, 2001	BellSouth and Indiantown
Tampa	813	January 14, 2002	Verizon
Sarasota-Bradenton	941 and 239	February 11, 2002	Verizon and Sprint

* The Keys area is not a Metropolitan Statistical Area.

This Commission has taken an aggressive approach to number conservation policies, in particular number pooling, which is providing great benefits. NeuStar, Inc., the current number pooling administrator is now keeping a record as to how many 10,000 number blocks (NXXs) are saved due to number pooling. Of the total 301 NXXs (or 3,010,000 numbers) saved by number pooling in Florida to date, 248 NXXs (or 2,480,000 numbers) are from the state mandated pooling areas. Number pooling has also had a large impact on postponing area code (NPA) relief in a number of these areas. The following table shows the impact on areas where state number pooling has taken place.

Area Code	Number of NXXs (10,000 Number Blocks) Saved by Pooling	Estimated Exhaust Date of Area Code as of June 2, 2003	Number of Quarters that Exhaust Date has moved out
239	20	4th Quarter 2017	0
305 (Keys)	6	3rd Quarter 2005	7 Quarters
386	15	1st Quarter 2025	17 Quarters
561	49	2nd Quarter 2013	21 Quarters
772	36	4th Quarter 2026	0
813	28	4th Quarter 2014	25 Quarters
904	25	4th Quarter 2018	30 Quarters
941	29	1st Quarter 2018	27 Quarters
954/754	40	1st Quarter 2019	0

In Order No. FCC 00-104[2], released March 31, 2000, the FCC stated:

> States implementing pooling must also ensure that they provide carriers with an adequate transition time to implement pooling in their switches and administrative systems. In addition, because our national cost recovery plan cannot become effective until national pooling implementation occurs, states conducting their own pooling trials must develop their own cost recovery scheme for the joint and carrier-specific costs of implementing and administering pooling in the NPA in question.

FCC 00-104 at ¶171. The Order further states:

> Costs incurred by carriers to implement state-mandated thousands-block number pooling are intrastate costs and should be attributed solely to the state jurisdiction.
>
> FCC 00-104 at ¶197.

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[2] Report and Order and Further Notice of Proposed Rule Making, CC Docket No. 99-200, Order No. FCC 00-104, released March 31, 2000, In the Matter of Numbering Resource Optimization.

By Order No. PSC-00-0543-PAA-TP, issued May 30, 2000, in Docket No. 981444-TP, this Commission found it appropriate to order the mandatory implementation of thousand-block number pooling for all Local Number Portability-capable carriers in the 954, 561, and 904 area codes. The Order was subsequently protested by a number of parties[3] (Joint Petitioners). Specifically, the Joint Petitioners protested and sought a hearing regarding only the portions of the PAA order that related to: (1) mandatory implementation of thousand-block pooling; (2) thousand-block pooling software release and implementation dates; and (3) designation of a pooling administrator. The Joint Petitioners filed an Offer of Settlement with this Commission on April 11, 2000 which included verbiage addressing number pooling cost recovery which stated:

> In view of the potential ultimate impact of number pooling cost recovery on Florida customers, the Commission should address cost recovery. Accordingly, the Revised Plan requires that the Commission open a docket in accordance with the FCC mandate for the purpose of determining the amount of the costs of number pooling and the method by which they will be recovered. However, in the spirit of moving forward, the Joint Petitioners are willing to proceed now with all aspects of the implementation of number pooling pursuant to the Revised Plan with cost recovery being determined just so long as the Commission has acknowledged the need for cost recovery and has committed to starting the cost recovery process.

By Order No. PSC-00-1046-PAA-TP, issued May 30, 2000, in Docket No. 981444-TP, this Commission approved the Joint Petitioners' Offer of Settlement and thereby acknowledged the need for cost recovery and agreed to open a docket to address the cost recovery process. Subsequently, Docket No. 001503-TP was opened on September 29, 2000 to address number pooling cost recovery.

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[3] ALLTEL Communications, Inc., AT&T Communications of the Southern States, Inc., BellSouth Mobility, Inc., BellSouth Telecommunications, Inc.,Florida Cable Telecommunications Association, Inc.,Global Naps, Inc.,GTE Service Corporation, Intermedia Communications, Inc., MCI WorldCom, Inc., Media One Florida Telecommunications, Inc., Sprint Spectrum L.P., Sprint Communications Company Limited Partnership, Sprint-Florida Incorporated.

On December 12, 2000, a workshop was conducted to solicit input from the industry regarding cost recovery and allocation mechanisms for number pooling trials in Florida. The post-workshop comments were focused mainly on whether cost recovery should be delayed until the FCC makes a determination as to whether state-mandated pooling costs should be rolled into the federal cost recovery mechanism, or whether this Commission should proceed with the cost recovery. However, the Office of Public Counsel comments contended that price cap regulation in Florida already provides cost recovery for the local exchange companies, and there is no need for a local rate surcharge, as the local exchange industry argues, nor is a surcharge on local rates authorized by the Florida Statutes.

In Order No. FCC 00-429[4], released December 29, 2000, the FCC concluded that the amount and detail of the cost data that had been provided in response to Order No. FCC 00-104 was insufficient for it to determine the amount or magnitude of the costs associated with thousands-block number pooling, and sought additional comments and cost studies that quantify shared industry and direct carrier-specific costs of thousands-block number pooling. Id. at ¶180.

On February 13, 2001, this Commission submitted comments to the FCC regarding Order No. FCC 00-104, stating that the FCC should give state commissions the option to defer state-mandated thousands-block number pooling cost recovery until national thousands-block number pooling is implemented and a federal cost recovery mechanism is put in place. At that time, the costs of the state-mandated thousands-block number pooling could be rolled into one recovery mechanism. This would result in having only one number pooling charge on a customer's bill, which would cause less confusion for the customers.

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[4] Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200, CC Dockets Nos. 96-98 and 99-200, Order No. FCC 00-429, released December 29, 2000, In the Matter of Numbering Resource Optimization; Petition of Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, 717.

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> In this Third Report and Order, we direct states implementing thousands-block number pooling under delegated authority to commence cost recovery actions for state-mandated thousands-block number pooling trials. We applaud the efforts that state commissions have made in implementing pooling trials within their respective jurisdictions, and we believe that the costs should be recovered within those jurisdictions that have enjoyed the benefits of such trials.

FCC 01-362 at ¶25.

The FCC also acknowledged the argument proffered by some commenters, including the FPSC, that state costs should be combined with national costs, and all thousands-block number pooling costs should be recovered in the federal jurisdiction. Id. at ¶26. The FCC expressly rejected this proposal, stating that ". . . [w]e believe that the entire nation should not be required to bear the costs incurred for the benefit of a particular state." Id. at ¶27. Order No FCC 01-362 further stated:

> We now direct states that have exercised delegated authority and implemented thousands-block number pooling to likewise commence cost recovery procedures for these state-specific costs. We agree with BellSouth that any state that has ordered implementation of pooling in advance of the national rollout is required to implement a cost recovery scheme.

FCC 01-362 at ¶28.

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[5] Third Report and Order and Second Order on Reconsideration, CC Dockets Nos. 96-98 and 99-200, Order No. FCC 01-362, released December 28, 2001, In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability.

By Order No. PSC-02-0466-PAA-TP, issued April 5, 2002, in Docket No. 001503-TL[6], we ordered that carriers shall be allowed the opportunity to seek recovery of their costs associated with state-mandated pooling trials. We further ordered that regulated carriers seeking recovery shall file a petition with us for a cost recovery mechanism that meets federal and state law, including all supporting documents related to their cost analysis.

On August 5, 2002, BellSouth filed its Petition for Cost Recovery of its carrier-specific costs ($3,506,844) associated with state-mandated number pooling trials.

On March 5, 2003, our staff sent an inquiry to the State Coordination Group (SCG)[7] to determine whether their respective commission had implemented any cost recovery mechanism for state-mandated number pooling trials. Based on the responses received, most state commissions have not taken any action because either a cost recovery petition has not been filed by the incumbent carrier, or a petition was filed but the incumbent carrier withdrew its petition.

Prior to the issuance of Order FCC 01-362, two state commissions had addressed cost recovery for state-mandated pooling trials. In Order No. U-13086, issued November 20, 2001, the Michigan Public Service Commission stated that a special cost recovery mechanism shall not be approved for recovery of carrier-specific costs associated with number pooling because these are costs of doing business. In Docket No. T-00000A-01-0076, issued August 29, 2001, the Arizona Corporation Commission stated that carrier-specific costs are not recoverable by a special cost recovery mechanism since they are merely costs of doing business. In Arizona and Michigan there were only two state-mandated pooling trials in each state. Some other states, including New Hampshire and Maine, are still working on the merits of the cost recovery issues.

Responses to our staff's interrogatories show that BellSouth was ordered to initiate state-mandated number pooling trials in Florida, North Carolina, and Tennessee, and it has filed for cost

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[6] Consummating Order PSC-02-0590-CO-TP, issued April 30, 2002.

[7] A group composed of staff from 33 state Commissions who work on numbering issues (AR, AZ, CA, CO, CT, FL, IA, ID, IL, IN, KS, MA, MD, ME, MI, MO, MT, NC, NE, NH, NJ, NY, OH, OK, PA, RI, TN, TX, UT, VA, VT, WA, and WI).

recovery in Florida and North Carolina. The North Carolina petition (Docket P-100, Sub 137) was filed May 19, 2003, but no action has been taken on it by the North Carolina Utilities Commission as of the date of the filing of the recommendation. BellSouth did not file a cost recovery petition for state-mandated number pooling trials in Tennessee because the state trial was initiated one day prior to Federal jurisdiction taking over number pooling.

Our staff filed a recommendation addressing BellSouth's petition for the March 18, 2003, Agenda Conference, which was deferred at BellSouth's request. After the deferral, our staff took the opportunity to meet with representatives of the Office of Public Counsel and BellSouth on March 25, 2003, to attempt to find common ground. Although no agreements were reached, both parties agreed that the meeting was beneficial. Our staff filed a revised recommendation for the May 20, 2003, Agenda Conference to address BellSouth's petition for cost recovery. At the Agenda Conference, we voted to defer this recommendation to allow our staff time to obtain additional information from BellSouth regarding the amount of cost recovery, and the nature and substance of a notice to customers. This supplemental information was included in the revised recommendation although staff's original recommendations did not changed based on the additional information provided by BellSouth.

II. JURISDICTION

This Commission has federal and state law authority to act regarding number pooling issues. Section 251 (e) of the Telecommunications Act of 1996 (Act) permits the FCC to delegate authority to state commissions to administer telephone numbering. Section 251 (e) states that:

> (e) Numbering Administration.--
>
> (1) Commission authority and jurisdiction - 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.

Moreover, Section 251 (e)(2), provides the authority to collect for the cost of number pooling. Section 251 (e)(2) states:

> (2) Costs - The cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.

By Order No. FCC 99-249, released September 15, 1999, the FCC acknowledged the need to delegate number conservation authority to this Commission. In that Order, the FCC states that:

> We recognize that the area code situation in Florida is critical, with nine new area codes having been added since 1995, six of which may already be in jeopardy. In light of this extreme situation and in order to empower the Florida Commission to take steps to make number utilization more efficient, we herein grant significant additional authority to the Florida Commission.

Id. at ¶ 5. Further, pursuant to Section 251(e), the FCC delegated authority to conduct number pooling trials. In that Order, the FCC states that:

> We therefore grant authority to the Florida Commission to conduct mandatory thousands-block number pooling trials in Florida.

Id. at ¶ 13. Pursuant to Section 251(e)(2), the FCC delegated its obligation to provide for cost recovery for the number pooling trials. Specifically, the FCC states in the Order that:

> We further require that the Florida Commission determine the method to recover the costs of the pooling trials. The Florida Commission must also determine how carrier-specific costs directly related to pooling administration should be recovered. The Commission has tentatively concluded that thousands-block number pooling is a numbering administration function, and that section 251(e)(2) authorizes the Commission to provide the distribution and recovery mechanisms for the interstate and intrastate costs of number pooling. We conclude that inasmuch as we are hereby delegating numbering administration authority to the Florida Commission, the Florida Commission must abide by the same statute applicable to this Commission, and, therefore, ensure that costs of number pooling are recovered in a competitively neutral manner.

Id. at ¶ 17. Thus, pursuant to the Act and Order No. FCC 99-249, this Commission has been delegated authority to act under federal law regarding administering telephone numbering issues.

This Commission also has state law authority to act regarding numbering issues. Specifically, the state law authority over numbering policies is granted through Sections 364.01(4)(a), and 364.16(14) Florida Statutes. Section 364.01(4)(a) states:

> The commission shall exercise its exclusive jurisdiction in order to:
>
> (a) Protect the public health, safety, and welfare by ensuring that basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices.

Having an adequate supply of numbers available for the provision of telecommunications service is essential to ensuring that basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices.

Section 364.16(4), Florida Statutes states:

> In order to assure that consumers have access to different local exchange service providers without being disadvantaged, deterred, or inconvenienced by having to give up the consumer's existing local telephone number, all providers of local exchange services must have access to local telephone numbering resources and assignments on equitable terms that include a recognition of the scarcity of such resources and are in accordance with national assignment guidelines.

Section 364.16(4), Florida Statutes, acknowledges the importance of numbering issues. This section provides for local number portability because of the scarcity of numbering resources and the need to protect and make avail to all local providers, access to numbering resources. Thus, it appears clear from this language that we are charged with ensuring the scarce numbering resources in Florida are protected in accordance with the national assignment guidelines. Although, this subsection of the statute specifically relates to local number portability, the principles acknowledged within this section should and can be applied to our general obligation to ensure the availability of basic local telecommunications service to Florida consumers. Under Florida law, we have the authority and obligation to take reasonable measures to ensure the protection of the scarce numbering resources within the State of Florida. Thus, working in conjunction with the Federal delegation of authority over number pooling and the

cost associated with the number pooling trials, state law also provides authority for us to act consistent with ensuring the protection of the scarce numbering resources within the State of Florida. The U.S. Supreme Court recognized that when federal and state legislative directives are interwined, state agencies need to act in accordance with, if not at the direction of, Congress. See FERC v. Mississippi, 456 U.S. 742 (1982). Therefore, we find that the FCC's specific delegation of authority to this Commission to implement number pooling and address related cost recovery, in conjunction with Florida Legislator's apparent intent that this Commission act in this area, establishes the basis for our ability to act in this matter.

While we recognize that OPC puts forth an argument that number pooling is a basic telecommunications service and as such the company is not entitled to cost recovery, we find that we need not go further in our analysis regarding jurisdiction to address OPC's argument. Thus, we find that this Commission has authority regarding cost recovery of state-mandated pooling trials granted pursuant to Section 251(e) of the Telecommunications Act of 1996, and Sections 364.01, and 364.16(4), Florida Statutes.

III. COMPLIANCE WITH ORDER NO. PSC-02-0466-PAA-TP

As stated in the Background, by Order No. PSC-02-0466-PAA-TP, we allowed carriers the opportunity to seek recovery of costs associated with state-mandated number pooling trials. Specifically, the Order stated:

> Carriers seeking recovery of carrier-specific costs shall make a filing with this Commission detailing the means by which they propose to recover their costs consistent with FCC guidelines and in accordance with federal and state statutes.

On August 5, 2002, BellSouth filed a petition for recovery of its carrier-specific costs ($3,506,844) associated with state-mandated number pooling trials. Upon our review and analysis of BellSouth's petition, and based on Order No. PSC-02-0466-PAA-TP, we find that BellSouth's cost recovery petition for state-mandated number pooling trials complies with the filing requirements established pursuant to Order No. PSC-02-0466-PAA-TP.

IV. AMOUNT TO BE RECOVERED

By Order FCC 00-104, the FCC adopted three cost categories for thousands-block number pooling: (1) shared industry costs [costs incurred by the industry as a whole, such as the North American Numbering Plan (NANP) administration costs]; (2) carrier-specific costs directly related to thousands-block number pooling [such as enhancements to carriers' Service Control Point (SCP), Local Service Management System (LSMS), Service Order Activation (SOA), and Operation Support Systems (OSS)]; and (3) carrier-specific costs not directly related to thousands-block number pooling. FCC 00-104 at ¶201, ¶208, and ¶211. Order No. FCC 00-104 concluded that incremental shared industry costs become carrier-specific costs once they are allocated among carriers. Id. at ¶204. The FCC also stated that ". . . each carrier should bear its carrier-specific costs not directly related to thousands-block number pooling implementation as network upgrades." Id. at ¶211.

When determining if, or how much, of the carrier-specific costs of state-mandated pooling trials should be recovered, we first considered whether these costs should just be treated as an ordinary cost of business. One can theorize that since the state-mandated pooling trials started in 2000, the carriers have already capitalized and expensed the costs, and recouped them through their price cap increases. However, we have previously acknowledged the need for state-mandated number pooling cost recovery by approving the Offer of Settlement mentioned in the Background.

The FCC, in FCC Order 01-362, detailed a three-prong test to determine whether number pooling costs are extraordinary. Specifically, the Order stated:

> ...to be eligible for the extraordinary recovery we establish above, thousands-block number pooling costs must satisfy each of three criteria identified in the LNP proceedings. First, only costs that would not have been incurred "but for" thousands-block number pooling are eligible for recovery. Second, only costs incurred "for the provision of" thousands-block number pooling are eligible for recovery. Finally, only "new" costs are eligible for recovery. To be eligible for extraordinary recovery, carriers' thousands-block number pooling shared industry and carrier-specific costs directly related to thousands-block number pooling must satisfy all three of these criteria.

FCC Order No. 01-362 at ¶43. The FCC interpreted the first two criteria, the "but for" test and the "for the provision of" test to mean that only the demonstrably incremental costs of thousands-block number pooling may be recovered. FCC 01-362 at ¶44. The third criteria regarding "new" costs was interpreted to mean that costs incurred prior to the implementation of thousands-block pooling are ineligible for recovery because they are embedded investments already subject to recovery through standard mechanisms. FCC 01-362 at ¶46.

By Order No. PSC-02-0466-PAA-TP, we ordered that carriers seeking recovery of carrier-specific costs shall show that:

1) pooling results in a net cost increase rather than a cost reduction;
2) the costs would not have been incurred "but for" and "for the provision of" thousands-block number pooling;
3) the costs are "new" costs;
4) the costs for which recovery is requested are Florida-specific costs not related to national number pooling; and
5) the costs will be recovered on a competitively neutral basis in accordance with Section 251(e)(2) of the Telecommunications Act of 1996. Order No. PSC-02-0466-PAA-TP at p. 10.

BellSouth's August 5, 2002, Petition included the following assertions in calculating the costs associated with state-mandated number pooling trials:

a) Costs are associated with the following state-ordered area code number pooling trials: 305[8], 561, 904, and 954;
b) Costs included in its petition were not included in the regional study[9];
c) Cost categories included consist of: Network Capital and Expenses (switch generic advancement and switch pooling feature software), Employee Related (switch translations, Network contract salaries & Block Administration Center salaries) and Number Portability Administration Center (NeuStar) Expenses;

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[8] The 305 area code only considers the Keys region.

[9] The regional study considers all of BellSouth's territory in the United States for FCC-mandated national number pooling cost recovery.

d) The cost methodology used in its petition is the total direct long-run incremental costs plus a reasonable allocation of shared and common costs. The study recovers the costs incurred during the years 2000, 2001, and 2002; and
e) The Present Value (PV) calculations are based on an 11.25% after-tax return rate, which has been used in FCC filings[10], such as BellSouth's Telephone Number Portability revised tariff filing dated June 11, 1999.

The FCC also required each carrier seeking number pooling cost recovery to estimate the cost savings experienced by postponing area code relief because of the implementation of number pooling. FCC 00-104 at ¶226. In its Petition, BellSouth stated that state-mandated pooling trials have postponed area code relief in its pooling areas and has saved BellSouth approximately $416,990. BellSouth followed FCC guidelines and deducted this amount from the total costs requested for implementing state-mandated pooling trials.

After examination of the BellSouth cost analyses submitted with its Petition, we find that, based on our previous decisions, certain costs should be excluded from consideration when determining state-mandated number pooling cost recovery. We find that $536,082 of salaried labor costs of BellSouth employees should be excluded from consideration when determining the amount of number pooling costs which should be recovered. We find that these BellSouth salaried costs are not "incremental" costs, and would have been incurred whether these salaried employees were working on number pooling or something else.

During the May 20, 2003, Agenda Conference, BellSouth stated that the surplused employees were used in the creation of the Block Administration Center (BAC). However, in response to Interrogatory No. 28 of Staff's Second Set of Interrogatories, BellSouth responded:

> At the May 20, 2003 Agenda Conference, Nancy White on behalf of BellSouth, stated that surplused employees were used in the creation of the BAC. BellSouth believed that to be accurate. In

[10] FCC Order No. 01-362 states " . . . an ILEC's unrecovered capital investment will be subject to an 11.25% percent after-tax return, however, a longer recovery period greatly increases the total cost, while a shorter recovery period would decrease total cost by decreasing the interest expense." FCC 01-362 at ¶ 41.

> answering this set of interrogatories, however, we have discovered that no surplus employees were indeed used at that time.

When asked in Interrogatory No. 42, to determine what BellSouth's costs would have been if BellSouth used contracted labor instead of internal salaried employees, BellSouth indicated that this information is not available since "BellSouth has not attempted to out-source this work and does not have the appropriate per hour charges to perform such calculations." BellSouth further stated that "[t]he BAC costs are ongoing costs that would not be appropriate for contract employees." We find that BellSouth did not consider out-sourcing labor. Aside from this, BellSouth clearly states that the BAC costs are ongoing costs that BellSouth incurs. In response to Interrogatory No. 27 regarding the functions of the BAC, BellSouth stated that a BAC specialist verifies, analyzes, and corrects all telephone number records within BellSouth's central office switches. The specialist also performs work related to telephone number records within the Number Pooling Administration Center (NPAC).

It is our opinion that BellSouth uses BAC specialists to perform not only duties related to BellSouth's central offices, but also duties related to NPAC. Since these employees are regular salaried employees of BellSouth, we do not find that BellSouth is entitled for recovery. We find that we need not provide a special cost recovery mechanism for salaried employees. We find that this treatment of the costs is inconsistent with the requirements of the FCC, which requires that any cost recovery mechanism be competitively neutral, and has concluded that treating costs as cost of doing business is competitively neutral.[11] The Michigan Public Service Commission endorsed a similar decision in its Opinion and Order in Case No. U-13086, dated November 20, 2001.

Based on BellSouth's filings and subsequent discussions, we find that BellSouth has not demonstrated that it had to create any new positions to implement state-mandated number pooling trials, has not shown that these salaried employees could have been terminated or laid off had the number pooling function not been imposed, and has not demonstrated that it could have saved money if it were to have used contracted employees.

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[11] Report and Order and Further Notice of Proposed Rule Making, CC Docket No. 99-200, Order No. FCC 00-104, released March 31, 2000, In the Matter of Numbering Resource Optimization. Id. at ¶208.

We note that we are charged with determining whether BellSouth's state pooling costs reasonably meet the standards set forth in Order No. PSC-02-0466-PAA-TP, and Order No. FCC 01-362. In ¶ 28 of Order FCC 01-362, the FCC states:

> If, after reviewing carrier cost submissions, states determine in accordance with Section 251(e)(2) and the Commission's analysis here and in the First Report and Order that carriers have incurred little or no recoverable carrier-specific costs directly related to state thousands-block number pooling trials (i.e., incremental costs directly attributable to thousands-block number pooling), they should make affirmative findings to that effect.

The salaried labor costs of BellSouth included in its Petition are not incremental costs, and just as the FCC Order states, and thus we find such.

We find that BellSouth's salaried labor costs, have failed to meet the "but for" prong of the "three prong" test set forth in Order No. FCC 01-362 and incorporated in Order No. PSC-02-0466-PAA-TP. BellSouth has failed to meet the "but for" prong, because the labor costs would have been incurred whether or not there was a Florida state-mandated number pooling trial. BellSouth could have retained the employees and treated the associated cost as a cost of doing business regardless of whether a state-mandated number pooling trial took place. As previously noted in the background, theoretically, the number pooling costs could have been depreciated and expensed for financial purposes. Our belief is that BellSouth has not provided justification that all of its labor costs meet the standards for recovery.

BellSouth is a price-regulated company whose earnings are not dictated by us. However, if a company had or should have recovered an expense through the normal course of business and it were recovered through a surcharge, it could be considered tantamount to "double-recovery."

We note that the FPSC has not previously made a "double cost recovery" determination in the context of a telecommunications scenario. However, we have established a "double cost recovery" position in electric and water ratebase regulation proceedings. While we are not mandated to apply this "double cost recovery" standard in telecommunications cases, nevertheless we believe that this "double cost recovery" standard is persuasive in this case.

The "double cost recovery" standard is set forth in a number of our orders. For example, on page 10 of Order No. PSC-97-1047-FOF-EI, issued September 5, 1997, in Docket No. 970007-EI, this Commission states the following with regard to the Environmental Cost Recovery Clause (ECRC):

> The Company stated that no new positions were created for this project. Allowing these payroll charges to be included in the ECRC constitutes double recovery. Therefore, TECO should remove these payroll charges, including any applicable interest. . .

Another example is Order No. PSC-01-0326-FOF-SU, issued February 6, 2001, in Docket No. 991643-SU, in which this Commission states that:

> . . . we find that the utility has already recovered the costs of the items expensed prior to the test year and that it would result in double recovery if these items were allowed to be capitalized. This position is supported by Westwood Lake, Inc. v. Metropolitan Dade County Water and Sewer Board, 203 So. 2d 363, 367 (Fla. 3d DCA 1967), in which the court noted that:
>
> > Ordinarily, a utility may not capitalize and include in its rate base items which have been accounted for and charged off as operating expenses. This is true because expensed items have been paid for and their costs recovered and the utilities are estopped therefore to capitalize those items which they have already expensed. (Citations omitted)

Based on our standards regarding double recovery set forth in the above cases and analysis of BellSouth's petition for cost recovery, we find that (1) including salaried labor costs may result in double recovery, (2) BellSouth has failed to meet its burden of proof that "but for" number pooling these labor costs would have been incurred, and (3) BellSouth has failed to demonstrate that these salaried employee costs are "new" costs specifically related to number pooling.

BellSouth, however, has shown that it incurred $66,817 of contracted labor which we find is justified and shall be recovered. Based on this analysis, we find that $536,082 of salaried labor costs of BellSouth employees shall be excluded when determining the amount of recoverable number pooling costs subject to recovery because BellSouth has not demonstrated that it has met its obligation using the "but for" prong test of the FCC. However, BellSouth shall be allowed to recover the remaining carrier-specific costs of $2,970,762 associated with implementing state-mandated pooling trials.

V. HOW COSTS SHOULD BE RECOVERED

We examined a number of alternatives when determining how the number pooling carrier specific costs of BellSouth should be recovered if approved by us. The FCC has authorized carriers seeking recovery of national federally-mandated number pooling trials to use network access charges as a cost recovery mechanism. However, we find that we should approve a recovery mechanism which is consistent and can be applied to all carriers filing for state-mandated number pooling cost recovery in Florida because many of carriers will not meet the parity standards.

We agree with the FCC position that all subscribers will benefit from number pooling. Order FCC 01-362 states:

> . . . all carriers and subscribers will benefit from national thousands-block number pooling to the extent that it postpones or avoids area code relief and ultimately the replacement of the existing NANP.

Id. at ¶34. For this reason, costs of federally-mandated number pooling would be shared and borne by all end-user lines in the United States. To avoid disproportionate impacts from combination of federal and state cost recovery, BellSouth's carrier-specific costs associated with state-mandated number pooling trials should be borne by all BellSouth's Florida end-user lines.

An argument could be made that some end-users may benefit more than others. The FCC, in Order 01-362, rejected the idea that state costs should be combined with national costs, and all thousands-block number pooling trial costs should be recovered in the federal jurisdiction. Id. at ¶26. However, the FCC allows federally-mandated number pooling trial costs to be recovered by

all customers of the ILEC regardless of the state in which the pooling trial took place.

Subscribers located in area codes with state-mandated pooling may benefit more since area code relief for their area code may be postponed further because of number pooling. We have consistently ruled that the "cost causers," not the general body of ratepayers should bear the costs.[12]

However, we find that our previous decisions do not apply here because all customers benefit from extending the life of area codes, and the NANP. This is consistent with the FCC's conclusion that there is no "cost causer" in the traditional sense. FCC Order No. 01-362 at ¶36. Therefore, we find that BellSouth's carrier-specific costs associated with state-mandated number pooling trials shall be borne by all BellSouth's Florida end-user lines. Thus, all customers shall share in the costs of number pooling.

We estimate that BellSouth had approximately 6,200,176 end-user lines in Florida as of June 30, 2003. When addressing the length of time over which to allow number pooling cost recovery, the FCC stated:

> We are thus required to establish some reasonable period of time, shorter than five years, over which these costs may be recovered. Given that an ILEC's unrecovered capital investment will be subject to an 11.25 percent after-tax return, however, a longer recovery period greatly increases the total cost, while a shorter recovery period would decrease total cost by decreasing the interest expense. Accordingly, we conclude that recovery should be spread over a two-year period.

FCC 01-362 at ¶41. Using a two-year recovery period, we estimate that each access line would have an approximate additive of $0.02 per month for the amount approved in Section IV, Amount to Be

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[12] By Order No. PSC-99-1399-PAA-WU, issued July 21, 1999, in Docket No. 981663-WU, the Commission stated "These charges are designed to more accurately reflect the costs associated with each service and to place the burden of payment on the person who causes the cost to be incurred (the 'cost causer,') rather than on the entire ratepaying as a whole. By Order No. PSC-99-0924-PAA-EI, issued May 10, 1999, in Docket No. 990179-EI, the Commission stated "In our order approving the late payment charge for Southern Bell, we stated that 'this Commission has consistently taken action to place costs on the cost-causer rather than the general body of ratepayers.'"

Recovered. However, since the total costs recovered from BellSouth's Florida end users associated with state-mandated number pooling trials would be approximately $0.48 ($2,970,762/6,200,176 end-user lines), we find that in the interest of administrative efficiency, a one-time charge would be appropriate, and would not present a hardship to consumers.

We find that BellSouth shall use its Florida end-user lines of customers of record as of June 30, 2003, to calculate the exact charge. We find that equivalency factors regarding end-user lines should be the same as those used for local number portability cost recovery. Furthermore, we find that BellSouth shall submit its final calculation of the end-user line charge to our staff at least 30 days prior to putting any assessment on customer bills for our staff's review. We also find that our staff shall be allowed to approve the calculation of the final assessment administratively; however, our staff should bring any material difference between the estimated one-time charge and the final assessment before us for approval.

VI. NOTICE TO CUSTOMERS

During the May 20, 2003, Agenda Conference, we expressed concern as to what type of notice would be given to customers, and what the charge would be called on the end-users' bills if we approved state-mandated number pooling cost recovery for BellSouth. We directed our staff to provide information when the item was brought before us again on the nature and substance of a notice to customers.

Subsequent to the May 20, 2003, Agenda Conference, our staff sent a second set of interrogatories to BellSouth addressing the number pooling cost recovery. Interrogatory No. 39 asked "What type and form of customer notice would BellSouth provide to customers if number pooling cost recovery is allowed?" BellSouth responded that:

> BellSouth would more than likely provide customer notice in a bill insert at least 30 days prior to the bill containing the charge. BellSouth would be willing to work with Commission Staff on the appropriate language for the bill insert.

Interrogatory No. 40 of Staff's Second Set of Interrogatories asked "Considering that the Commission has allowed, but not required, carriers to file a petition requesting number pooling cost

recovery, if cost recovery is approved, how would this cost be presented to customers on their bill? Provide the exact wording." BellSouth responded that:

> BellSouth would be willing to work with the Commission Staff on the appropriate language for the customer's bill. BellSouth could present this charge as "Number Pooling Cost Recovery Charge."

By Order No. PSC-02-0466-PAA-TP, issued April 5, 2002, we allowed, but did not require, carriers to seek recovery for state-mandated pooling trials.[13] We find that the voluntary aspect should be reflected in the notice and in the line-item name of the charge. The name of the charge should not imply that the charge was mandated, or required by the state. Therefore, staff recommends that BellSouth provide a bill insert or bill message at least 30 days prior to the bill containing the charge. The bill insert or bill message should contain similar wording as stated below:

> BellSouth has participated in thousands-block number pooling trials in Florida to conserve telephone numbers and postpone area code changes. Number pooling is the process by which telephone companies share a pool of telephone numbers that have the same central office code (first three numbers of your seven-digit phone number). A one-time charge in the amount of $0.XX will appear on your next bill and be titled "One-Time BellSouth Florida Number Pooling Cost Recovery Charge." This charge will be for recovery of the expenses involved in the implementation of the Florida number pooling trials. Questions regarding this Florida number pooling charge can be directed to your BellSouth Service representative at (8XX) XXX-XXXX.

However, we recognize that there are certain limitations on length of a bill insert or bill message. Therefore, the Company shall work with our staff to create the final language to be included in the bill insert or bill message which reflects the spirit of the criteria above.

We note the amount of the one-time charge to be recovered is addressed in Section IV. We find that BellSouth shall provide a

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[13] By letter dated September 11, 2002, Verizon Florida, Inc. stated that it would not be seeking cost recovery for state-mandated pooling trials in Florida.

toll free phone number for customers who have questions concerning this charge, and have service representatives available who can respond to questions regarding Florida number pooling.

As noted in the bill insert or bill message language, the line item charge which will appear after the bill insert shall read "One-time Area Code Conservation Charge." The final draft of the bill insert or bill message and line item charge shall be submitted to our staff for approval prior to use.

Based on the above analysis, BellSouth shall provide notice to customers using a bill insert or bill message at least 30 days prior to the bill containing the charge. Further, the Company shall work with our staff to create the final language to be included in the bill insert or bill message which reflects the spirit of the criteria above. We also find it appropriate that the end-user charge be stated as "One-time Area Code Conservation Charge." The final draft of the bill insert or bill message and line item charge shall be submitted to our staff for approval prior to use. BellSouth shall also provide a toll-free telephone number for customers who have questions concerning this charge, and have service representatives available who can respond to questions regarding Florida number pooling.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc.'s Petition for Cost Recovery is granted in part as set forth in the body of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 2nd Day of October, 2003.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

PAC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding,

in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 23, 2003.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

BASKET SUMMARY FOR 2000, 2001 AND 2002

Market Basket Description	Revenue Increase 2000	Revenue Increase 2001	Revenue Increase 2002
Basic	$0	$8,406,678	$11,812,047
Non-Basic Res Exchange	$1,283,425	$3,622,377	$0
Non-Basic Bus Exchange	$39,018,260	$45,361,706	$44,337,945
Non-Basic Res Optional	$27,087,464	$6,948,516	($2,422,157)
Non-Basic Bus Optional	$11,724,794	$3,042,678	$7,936,403
Non-Basic Toll Services	$3,738,085	$5,954,270	$2,740,896
Non-Basic Transport	$3,717,754	$7,539,792	$11,559,872
Non-Basic Operator Services	$969,822	$625,535	($50,985)
Non-Basic Directory Assistance	$3,196,900	$17,056,803	$11,322,212
Non-Basic Miscellaneous	$0	$0	$10,066,649

Attachment 17