

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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In the Matter of	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Implementation of the Local Competition	)	
Provisions of the Telecommunications	)	CC Docket No. 96-98
Act of 1996	)	
	)	
Petition of Representative Keith R. McCall and	)	
Members of the Northeast Delegation of the	)	NSD-L-01-113
Pennsylvania House of Representatives	)	
Requesting that Additional Authority be	)	
Delegated to the Pennsylvania Public Utility	)	
Commission to Implement Additional Number	)	
Conservation Measures	)	
	)	
Petition of the Louisiana Public Service	)	
Commission for Expedited Decision for	)	NSD-L-01-147
Additional Delegated Authority to Implement	)	
Number Conservation Measures Regarding 318	)	

**ORDER**

**Adopted: December 21, 2001**

**Released: December 28, 2001**

By the Common Carrier Bureau:

**I. INTRODUCTION**

1. This Order addresses the petitions for additional delegated authority to implement numbering resource optimization strategies filed by Representative Keith R. McCall and Members of the Northeast Delegation of the Pennsylvania House of Representatives on behalf of the Pennsylvania Public Utility Commission (Pennsylvania Commission)<sup>1</sup> and by the Louisiana Public Service

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<sup>1</sup> *Petition of Representative Keith R. McCall and Members of the Northeast Delegation of the Pennsylvania House of Representatives Requesting that Additional Authority be Delegated to the Pennsylvania Public Utility Commission to Implement Additional Number Conservation Measures*, filed June 11, 2001 (Pennsylvania Commission Petition). For the purpose of convenience, we will refer to the Petitioner as the Pennsylvania Commission and not Representative McCall.

Commission (Louisiana Commission).<sup>2</sup>

2. In this Order, we conditionally grant the Pennsylvania Commission the authority to institute thousands-block number pooling trials in the 570 and 717 area codes. The thousands-block number pooling trials for these numbering plan areas (NPA) must be initiated prior to the commencement of national pooling, which is currently scheduled for March 2002.<sup>3</sup> These thousands-block number pooling trials must also conform to the national framework as articulated in the *Numbering Resource Optimization Orders*.<sup>4</sup> We also grant the Louisiana Commission the authority to (1) maintain NXX code rationing procedures for six months following area code relief; and (2) hear and address claims by carriers in need of NXX codes outside of the rationing process.<sup>5</sup>

## II. BACKGROUND

3. Congress granted the FCC plenary jurisdiction over numbering administration.<sup>6</sup> Section 251(e)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (1996 Act), allows the FCC to delegate to state commissions or other entities all or any portion of its

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<sup>2</sup> *Petition of the Louisiana Public Service Commission for Expedited Decision for Additional Delegated Authority to Implement Number Conservation Measures Regarding Area Code 318, Common Carrier Docket 99-200* (dated Aug. 21, 2001; filed Aug. 22, 2001) (Louisiana Commission Petition).

<sup>3</sup> *See Federal Communications Commission's Common Carrier Bureau Selects NeuStar, Inc. as National Thousands-Block Number Pooling Administrator*, Press Release (rel. June 18, 2001) (*Pooling Administrator Press Release*). In its comments, the Pennsylvania Commission states that it has initiated implementation of voluntary thousands-block number pooling trials in the 570 and 717 NPAs, and asks the Federal Communications Commission (FCC) to clarify that these voluntary trials will become mandatory pools under the national thousands-block number pooling program. Pennsylvania Commission Comments at 1. Pooling trials that have commenced prior to March 2002 will be transitioned into the national pooling program by that time. *See Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd at 7574, 7647, para. 161 (2000) (*Numbering Resource Optimization First Report and Order*).

<sup>4</sup> *See generally, Numbering Resource Optimization First Report and Order*, 15 FCC Rcd 7574; *Numbering Resource Optimization Second Report and Order*, 16 FCC Rcd 306 (2000); *Numbering Resource Optimization, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200*, FCC 01-362 (rel. Dec. 28, 2001) (*Numbering Resource Optimization Third Report and Order*).

<sup>5</sup> As discussed in the *October 2001 Public Notice*, we decline to address the Louisiana Commission's request for delegated authority to implement a state thousands-block number pooling trial, and dismiss as moot the Louisiana Commission's request for authority to: (1) order the return of unused and reserved NXX codes or NXX codes obtained in contravention of industry guidelines; (2) enforce the number utilization reporting requirements; and (3) require number utilization and forecast reports from carriers. The Louisiana Commission also requested that the 318 NPA be given priority status on the national rollout schedule. *See Common Carrier Bureau Seeks Comment on the Petitions of Representative Keith R. McCall and Other Pennsylvania State Representatives and the Louisiana Public Service Commission Requesting Delegated Authority to Implement Number Conservation Measures and Common Carrier Bureau Declines to Address the Remaining Requests of the Georgia Public Service Commission, the Kentucky Public Service Commission and the Louisiana Public Service Commission for Delegated Authority to Implement Number Conservation Measures*, Public Notice, DA 01-2174 (rel. Oct. 9, 2001) (*October 2001 Public Notice*).

<sup>6</sup> 47 U.S.C. § 251(e).

jurisdiction over numbering administration.<sup>7</sup> On September 28, 1998, the FCC released the *Pennsylvania Numbering Order*, in which it delegated authority to state commissions to order NXX code rationing in conjunction with area code relief decisions, in the absence of industry consensus.<sup>8</sup> In that Order, the FCC also encouraged state commissions to seek further limited delegations of authority to implement number conservation measures.<sup>9</sup> In September 1999, the FCC addressed five petitions from state commissions seeking delegations of authority to implement number conservation measures,<sup>10</sup> and, in November 1999, the Bureau addressed five similar petitions from state commissions under delegated authority.<sup>11</sup>

4. In the *Numbering Resource Optimization First Report and Order*, the FCC delegated to the Bureau the authority to rule on state petitions for additional delegation of numbering authority when no new issues are raised.<sup>12</sup> In the *Numbering Resource Optimization First Report and Order*

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<sup>7</sup> *Id.* at § 251(e)(1).

<sup>8</sup> *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 (1998) (*Pennsylvania Numbering Order*); see also *Numbering Resource Optimization Second Report and Order* at 341-43, paras. 76-80 (addressing petitions for clarification and reconsideration that were filed in response to the *Pennsylvania Numbering Order*).

<sup>9</sup> *Id.* at 19030.

<sup>10</sup> 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 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); *Maine Public Utilities Commission Petition for Additional Delegated Authority to Implement Number Conservation Measures*, Order, 14 FCC Rcd 16440 (1999).

<sup>11</sup> See *Connecticut Department of Public Utility Control Petition for Delegation of Additional Authority to Implement Area Code Conservation Measures*, Order, 15 FCC Rcd 1240 (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, 15 FCC Rcd 1252 (1999); *Petition of the Ohio Public Utilities Commission for Delegation of Additional Authority to Implement Number Conservation Measures*, Order, 15 FCC Rcd 1268 (1999); *Petition of the Public Utility Commission of Texas for Expedited Decision for Authority to Implement Number Conservation Measures*, Order, 15 FCC Rcd 1285 (1999); *Petition of the Public Service Commission of Wisconsin for Delegation of Additional Authority to Implement Number Conservation Measures*, Order, 15 FCC Rcd 1299 (1999) (*Wisconsin Delegation Order*). Although these orders granted the state commissions interim authority to institute many of the optimization measures they requested in their petitions, they did so subject to the caveat that the grants were to be superseded by national number conservation measures adopted in the FCC's *Numbering Resource Optimization* proceeding. See, e.g., *California Delegation Order*, 14 FCC Rcd at 17486; *Connecticut Delegation Order*, 15 FCC Rcd at 1240-41; see also *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7581.

<sup>12</sup> *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7651-52; see also *Pennsylvania Numbering Order*, 13 FCC Rcd at 19030-31.

and the *Numbering Resource Optimization Second Report and Order*, the FCC adopted a number of administrative and technical measures to allow it to monitor more closely the way numbering resources are used within the North American Numbering Plan (NANP) as well as to promote more efficient use of NANP numbering resources. In the *Numbering Resource Optimization First Report and Order*, the FCC recognized that state commissions may be able to resolve certain issues more quickly and decisively than the industry through a consensus process. Thus, the FCC granted authority to state commissions to, among other things, order the North American Numbering Plan Administrator (NANPA), after an investigation, to reclaim carriers' NXX codes not activated within the permitted time period.<sup>13</sup>

5. The Bureau subsequently released orders on July 20, 2000, February 14, 2001, March 14, 2001, August 23, 2001, and October 24, 2001 addressing fifteen state commissions' petitions, four state commissions' petitions, seven state commissions' petitions, three state commissions' petitions, and three state commissions' petitions respectively, for additional delegated authority.<sup>14</sup> To the extent the requests in the instant petitions raise no new issues, the Bureau exercises its delegated authority to address these petitions herein.

### III. DISCUSSION

#### A. Thousands-Block Number Pooling Authority

6. Thousands-block number pooling involves the allocation of blocks of 1,000 sequential telephone numbers within the same central office code or NXX code<sup>15</sup> to different service providers. In the *Pennsylvania Numbering Order*, the FCC recognized that state thousands-block number pooling trials could aid in developing national pooling implementation, architecture and administrative standards.<sup>16</sup> In the *Numbering Resource Optimization Notice*, the FCC concluded that thousands-block number pooling is an important numbering resource optimization strategy, essential to extending the life of the NANP.<sup>17</sup> As a result, in prior state delegation orders, the FCC granted state commissions the authority to implement thousands-block number pooling trials.<sup>18</sup>

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<sup>13</sup> *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7680-82.

<sup>14</sup> *Numbering Resource Optimization*, Order, 15 FCC Rcd 23371 (2000) (*July 2000 Delegation Order*); *Numbering Resource Optimization*, Order, 16 FCC Rcd 3479 (2001) (*February 2001 Delegation Order*); *Numbering Resource Optimization*, Order, 16 FCC Rcd 5474 (2001) (*March 2001 Delegation Order*); *Numbering Resource Optimization*, Order, 16 FCC Rcd 15842 (2001) (*August 2001 Delegation Order*); *Numbering Resource Optimization*, Order, 16 FCC Rcd 18862 (2001) (*October 2001 Delegation Order*).

<sup>15</sup> "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).

<sup>16</sup> *Pennsylvania Numbering Order*, 13 FCC Rcd at 19027.

<sup>17</sup> *Numbering Resource Optimization Notice*, 14 FCC Rcd at 10383-84.

<sup>18</sup> See, e.g., *Numbering Resource Optimization*, Order, 15 FCC Rcd 23371 (2000).

## 1. Conditions and Safeguards

7. A grant of thousands-block number pooling authority is subject to the conditions and safeguards enumerated by the FCC in the *Pennsylvania Numbering Order*, previous state delegation orders, and the *Numbering Resource Optimization First Report and Order*, which sets forth the national thousands-block number pooling framework.<sup>19</sup> For instance, the FCC requires that the state commission, to the extent it has not already done so, prepare an NPA relief plan that may be adopted by the state commission when numbering resources in an NPA are in imminent danger of being exhausted.<sup>20</sup> The FCC also requires the state commission to first implement thousands-block number pooling in a single metropolitan statistical area (MSA), and expand pooling to another MSA only after pooling has been fully implemented in the initial MSA and carriers have had sufficient time to make the necessary adjustments for pooling, such as modifying their databases and upgrading their switch software. In addition, the state commission must implement its thousands-block number pooling trials before the commencement of national pooling, which is currently scheduled for March 2002.<sup>21</sup>

8. We also reiterate that only those carriers that have implemented permanent local number portability (LNP) shall be subject to state-mandated thousands-block number pooling trials.<sup>22</sup> Wireline carriers outside the top 100 MSAs are only required to implement LNP if requested by another carrier subject to the requirements established by the FCC.<sup>23</sup> Within areas that are subject to a 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 pooling (*i.e.*, non-LNP capable carriers shall continue to be able to obtain full NXX codes).<sup>24</sup>

9. We direct the state commission to conduct its thousands-block number pooling trials in accordance with industry-adopted thousands-block number pooling guidelines to the extent that the guidelines are not in conflict with the FCC's *Numbering Resource Optimization Orders*.<sup>25</sup> We also

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<sup>19</sup> *Pennsylvania Numbering Order*, 13 FCC Rcd at 19029-30; *see also July 2000 Delegation Order*, 15 FCC Rcd at 23377-82, paras. 10, 11, 13-22.

<sup>20</sup> Lack of numbering resources should never prevent carriers from providing service to prospective customers. Thus, this criterion attempts to ensure that carriers continue to have numbering resources available to them in the event that a pooling trial fails to alleviate the need for area code relief. In Illinois, the Illinois Commission recognized that a "back-up plan" was necessary because the pooling solution had not been completely developed or tested. Thus, the Illinois Commission decided that an all-services overlay would supersede the pooling trial in the event that the NXXs in the 847 NPA were depleted.

<sup>21</sup> *See Pooling Administrator Press Release*.

<sup>22</sup> Wireless carriers, for example, are not required to implement LNP until November 24, 2002. *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, 14 FCC Rcd 3092, 3116 (1999).

<sup>23</sup> *See* 47 C.F.R. § 52.23(b)-(c).

<sup>24</sup> *California Delegation Order*, 14 FCC Rcd at 17493.

<sup>25</sup> Thousands-Block Number (NXX-X) Pooling Administration Guidelines, Draft (INC 99-0127-023) (rev. Jan. 2001). This document is available at <<http://www.atis.org>>.

direct the state commission to ensure that adequate transition time is provided for carriers to adjust their switches and administrative systems prior to commencing thousands-block number pooling.

## 2. Cost Recovery

10. As we have repeatedly stated when discussing pooling trials, state commissions conducting pooling trials must develop a cost recovery mechanism for the joint and carrier-specific costs of implementing and administering pooling trials.<sup>26</sup> Cost recovery for national thousands-block number pooling will be under the national cost recovery plan when it becomes effective and we described this national plan in the *Numbering Resource Optimization Third Report and Order*.<sup>27</sup>

11. In the *Numbering Resource Optimization First Report and Order*, the FCC concluded that thousands-block number pooling is a numbering administration function, and that section 251(e)(2) authorizes the FCC to provide the distribution and recovery mechanisms for the interstate and intrastate costs of number pooling.<sup>28</sup> The FCC determined in the *Numbering Resource Optimization First Report and Order* that section 251(e)(2) requires all carriers to bear the shared costs of number pooling on a competitively neutral basis.<sup>29</sup> In exercising its delegated authority, the state commission must also ensure that costs of number pooling are recovered in a competitively neutral manner.<sup>30</sup> We encourage the state commission to refer to the cost recovery methodology from the *Numbering Resource Optimization Third Report and Order*<sup>31</sup> for further guidance as to how a competitively neutral cost recovery mechanism may be established. In general, a competitively neutral cost recovery mechanism meets two criteria, as we have discussed in our prior orders.<sup>32</sup> 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.”<sup>33</sup>

## 3. Pennsylvania Petition for Thousands-Block Number Pooling Authority

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<sup>26</sup> See, e.g., *February 2001 Delegation Order*, 16 FCC Rcd at 3487; *March 2001 Delegation Order*, 16 FCC Rcd at 5483; *August 2001 Delegation Order*, 16 FCC Rcd at 15850; *October 2001 Delegation Order*, 16 FCC Rcd at 18869.

<sup>27</sup> *Numbering Resource Optimization Third Report and Order* at paras 24-46.

<sup>28</sup> *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7663-64.

<sup>29</sup> *Id.* at 7664-65.

<sup>30</sup> 47 U.S.C. § 251(e)(2).

<sup>31</sup> See *Numbering Resource Optimization Third Report and Order* at paras. 24-46.

<sup>32</sup> See, e.g., *March 2001 Delegation Order*, 16 FCC Rcd at 5484; *August 2001 Delegation Order*, 16 FCC Rcd at 15850-15851; *October 2001 Delegation Order*, 16 FCC Rcd at 18869-18870.

<sup>33</sup> *Telephone Number Portability Order*, 14 FCC Rcd at 16478 (citing *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8420-21 (1996)); see also *Number Resource Optimization First Report and Order*, 15 FCC Rcd at 7665.

12. To ensure that thousands-block number pooling is implemented in areas where it has the potential to be most beneficial, the FCC requires state commissions to demonstrate that certain conditions are satisfied in their states before thousands-block number pooling authority will be delegated to them. In the *Numbering Resource Optimization First Report and Order*, the FCC directed state commissions seeking thousands-block number pooling authority to demonstrate that: 1) an NPA in its state is in jeopardy; 2) the NPA in question has a remaining life span of at least a year; and 3) that the NPA is in one of the largest 100 MSAs, or alternatively, the majority of wireline carriers in the NPA are LNP-capable. The FCC recognized, however, that there may be “special circumstances” in which pooling would be beneficial in NPAs that do not meet all of the above criteria, and stated that it may authorize pooling in such an NPA upon a satisfactory showing by a state commission of special circumstances.<sup>34</sup>

13. The Pennsylvania Commission requests authority to implement thousands-block number pooling in the 570 and 717 NPAs.<sup>35</sup> The Pennsylvania Commission’s filings demonstrate that although the 570 and 717 NPAs have a remaining life span of at least a year and encompass top 100 MSAs, neither the 570 NPA nor the 717 NPA is currently in jeopardy.<sup>36</sup> In addition, on August 9, 2001, the Pennsylvania Commission adopted an order to implement voluntary thousands-block number pooling trials in the 570 and 717 NPAs on February 28, 2002 and March 14, 2002, respectively.<sup>37</sup>

14. The Pennsylvania Commission argues, based on the following data, that thousands-block number pooling would extend the life of the 570 NPA. For example, the NANPA data revealed that, as of April 2001, 2,080,000 numbers were still available for assignment and that 62% of the telephone numbers in the 584 NXX codes already assigned to carriers were still available for use by customers.<sup>38</sup> The NANPA data also indicated that, based on current population estimates, carriers could assign at least four telephone numbers to each person located within the 570 NPA.<sup>39</sup> Further, the

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<sup>34</sup> *Numbering Resource Optimization First Report and Order* at 7652.

<sup>35</sup> See Pennsylvania Commission Petition at 1; see also Pennsylvania Commission Reply Comments at 9-12.

<sup>36</sup> Pennsylvania Commission Reply Comments at 10. The 570 and 717 NPAs are projected to exhaust in the fourth and second quarters of 2003, respectively. *Id.* The 570 NPA encompasses the Allentown-Bethlehem-Easton and Scranton-Wilkes-Barre-Hazleton MSAs and the 717 NPA encompasses the Harrisburg-Lebanon-Carlisle and Lancaster MSAs. *Id.* See also Pennsylvania Commission Petition at 14.

<sup>37</sup> Pennsylvania Commission Comments at 3. Most of the LNP-capable providers operating in the 570 and 717 NPAs signed a petition agreeing to participate fully in the voluntary pooling trials. *Id.* at 5-6. These providers also agreed to follow industry guidelines on pooling and use the same LNP cost model being used for Pennsylvania’s mandatory pooling trials. *Id.* at 6. In addition, we note that the Pennsylvania Office of Consumer Advocate (Pennsylvania Consumer Advocate) and Representative McCall suggested that we should, for the time being, decline to address the mandatory pooling request in the Pennsylvania Commission Petition because plans for voluntary pooling trials had already been initiated by the Pennsylvania Commission. See Pennsylvania Consumer Advocate Comments at 2-3; see also Comments of Representative Keith R. McCall at 5. We are inclined, however, to proceed with deciding the merits of this petition, particularly because the Pennsylvania Commission, in its reply comments, specifically requested a decision even though plans for voluntary pooling trials have already been set in motion. See Pennsylvania Commission Reply Comments at 7.

<sup>38</sup> Pennsylvania Commission Petition at 10.

<sup>39</sup> *Id.* at 11.

NANPA NXX code utilization data indicated that a potentially large number of unassigned NXX codes could be used for thousands-block number pooling.<sup>40</sup>

15. The Pennsylvania Commission also argues that “special circumstances” exist to merit a grant of authority to convert the planned voluntary pooling trial into a mandatory pooling trial in the 717 NPA.<sup>41</sup> Based on its previous experience with other NPAs that had large amounts of stranded numbers, the Pennsylvania Commission believes that the 3.4 million numbers in the 717 NPA that are stranded in carriers’ inventories could be assigned through pooling.<sup>42</sup> To illustrate this, the Pennsylvania Commission points out that, in April 2001, the overall utilization rate in the 610/484/835 NPAs was 57%, and carriers began donating a total of 3.2 million numbers for pooling in those NPAs.<sup>43</sup> As a result of those donations, only two NXX codes need to be assigned between April 2001 and July 2002.<sup>44</sup> With an average utilization rate of 44% in the 717 NPA, the Pennsylvania Commission expects similar success with pooling in the 717 NPA.<sup>45</sup>

16. The Pennsylvania Commission further explains that the 717 NPA has a large number of rate centers and a steady demand for NXX codes, which could lead to premature exhaust of the 717 NPA without pooling.<sup>46</sup> For example, as of October 2001, the 717 NPA only had 177 NXX codes remaining for assignment.<sup>47</sup> If two additional carriers requested numbers in each of the 717 NPA’s 108 rate centers, totaling 216 NXX codes, then a new area code would need to be opened.<sup>48</sup>

17. Finally, the Pennsylvania Commission contends that, if the voluntary pooling trial is not transformed into a mandatory pooling trial in the 717 NPA, then the effectiveness of the pooling trial may be diminished because new carriers operating in the 717 NPA could decline to participate in the voluntary pooling trial.<sup>49</sup>

18. We agree that thousands-block number pooling would lead to more efficient use of the 570 and 717 NPAs, particularly given the significant amount of unused and stranded numbering resources in these NPAs. Further, the successful planning of voluntary pooling trials in these NPAs

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<sup>40</sup> *Id.*

<sup>41</sup> *See generally, Supplement of the Pennsylvania Public Utility Commission* (filed November 21, 2001) (Pennsylvania Commission Supplement).

<sup>42</sup> *Id.* at 7. As of October 2001, the NANPA had assigned 615 NXX codes and only 44% of the numbers from those codes are in use. *Id.* at 6. *See also id.* at 7, n.14.

<sup>43</sup> *Id.* at 5.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 6, n.11.

<sup>46</sup> *Id.* at 7.

<sup>47</sup> *Id.* at 8.

<sup>48</sup> *Id.*

<sup>49</sup> Pennsylvania Commission Reply Comments at 12.



demonstrates a need for, and a readiness by industry to participate in, thousands-block number pooling trials.<sup>50</sup> Thus, we grant the Pennsylvania Commission the authority to implement thousands-block number pooling trials in the 570 and 717 NPAs subject to the conditions and safeguards referenced above. This grant of thousands-block number pooling authority extends to any new area code(s) implemented to relieve all NPAs in which pooling is taking place. Also, because the voluntary thousands-block number pooling trials for the 570 and 717 NPAs are scheduled for implementation prior to March 15, 2002, we direct the NANPA to establish those trials as mandatory pools under the national thousands-block number pooling program.

19. We disagree with the Cellular Telecommunications and Internet Association's (CTIA) comments that the grant of delegated pooling authority to the Pennsylvania Commission will interfere with national numbering conservation efforts.<sup>51</sup> As discussed in the *Numbering Resource Optimization First Report and Order*, state commissions must conform their thousands-blocks number pooling trials to the national framework to minimize additional costs and confusion that stem from differing regulatory requirements.<sup>52</sup> This requirement, we believe, will likely facilitate a quicker, easier transition to the national Pooling Administrator in these area codes. As a result, state residents will be able to realize the benefits of pooling as soon as possible.

20. We further disagree with the CTIA's contention that "[g]iven the FCC's decision that states must have conformed all aspects of their pooling trials with Federal requirements by April 8, 2001, there is no need to make further grants of interim authority to states to merely follow Federal requirements established by the *NRO Order*."<sup>53</sup> This deadline was established for states that had already implemented thousands-block number pooling trials and, therefore, is not relevant for deciding whether additional states should continue to receive thousands-block number pooling authority. The CTIA also opposes the Pennsylvania Commission's request to require non-LNP-capable carriers to participate in thousands-block number pooling.<sup>54</sup> We decline to consider the CTIA's comments on this matter because we find no request for this authority in the petition of the Pennsylvania Commission.

## **B. Authority to Hear and Address Claims from Carriers Outside of the Area Code Rationing Process**

21. The Louisiana Commission petitions for authority to respond to requests from individual carriers seeking to obtain NXX codes outside of the rationing process.<sup>55</sup> In prior orders, the

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<sup>50</sup> See generally, Pennsylvania Commission Comments; Pennsylvania Commission Reply Comments; Pennsylvania Commission Supplement.

<sup>51</sup> See CTIA Comments at 3.

<sup>52</sup> See *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7651.

<sup>53</sup> CTIA Comments at 4. We note that the FCC required states to conform all aspects of their pooling trials within three months after the *Numbering Resource Optimization Second Report and Order* was published in the Federal Register. See *Numbering Resource Optimization Second Report and Order*, 16 FCC Rcd at 328, para. 46. The date of publication was February 8, 2001, making the deadline for conformance well past April 8, 2001.

<sup>54</sup> CTIA Comments at 2, 5-7.

<sup>55</sup> Louisiana Commission Petition at 13.

FCC has granted state commissions the authority to hear and address claims from carriers seeking NXX codes outside of the rationing process.<sup>56</sup> We similarly grant the Louisiana Commission the authority to hear and address such claims.<sup>57</sup>

22. If requested, the Louisiana Commission may hear and address claims of carriers stating that they do not, or in the near future will not, have sufficient numbering resources to serve customers if they cannot obtain additional numbering resources, or that they are using or will have to use extraordinary and unreasonably costly measures to provide service. This grant of authority further empowers the Louisiana Commission to direct the NANPA to assign an NXX code to a carrier outside the rationing plan currently in place in an area code, based on a determination that such relief is necessary. We also grant the Louisiana Commission the authority to request whatever information it deems necessary to evaluate a carrier's request for additional numbering resources outside the rationing process. This information may include the carrier's business plan, customer requests for new service that the carrier cannot fill or has denied because of its lack of numbering resources, historical information on the carrier's growth rate, and information on any extraordinary steps the carrier is taking or may have to take to provide service. Further, although we delegate to the Louisiana Commission the authority to request and evaluate this information, such information shall be deemed confidential and shall not be released to any entity other than the NANPA, other state government agencies, the FCC, or the Bureau without the concurrence of the carrier submitting the information.<sup>58</sup>

### **C. Maintenance of Rationing Procedures for Six Months Following Area Code Relief**

23. The Louisiana Commission also requests the authority to maintain pre-NPA relief NXX code rationing measures for six months following implementation of area code relief to prevent an excessive number of requests for NXX codes.<sup>59</sup> In prior orders, the FCC granted similar authority to state commissions.<sup>60</sup> The FCC reasoned that a continuation of rationing after area code relief neither contradicts the *Pennsylvania Numbering Order*,<sup>61</sup> 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. Accordingly, we grant the Louisiana Commission the authority to order a continuation of any rationing plan in place prior to area code relief for six months following implementation of area code relief.

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<sup>56</sup> See, e.g., *California Delegation Order*, 14 FCC Rcd at 17500-01; *Massachusetts Delegation Order*, 14 FCC Rcd at 17462-63.

<sup>57</sup> BellSouth also supports a grant of this request, arguing that this type of authority is needed if rationing is taking place. BellSouth Comments at 5.

<sup>58</sup> See *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7605-09.

<sup>59</sup> Louisiana Commission Petition at 1.

<sup>60</sup> See, e.g., *Florida Delegation Order*, 14 FCC Rcd at 17517-18; *Massachusetts Delegation Order*, 14 FCC Rcd at 17458-59; *Wisconsin Delegation Order*, 15 FCC Rcd at 1310-11.

<sup>61</sup> 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.” See *Pennsylvania Numbering Order*, 13 FCC Rcd at 19027.

24. Where area code relief takes place in the form of an area code split, we grant the Louisiana 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 date of implementation of area code relief.<sup>62</sup> Correspondingly, if the area code relief is in the form of an all-services overlay, the Louisiana Commission may direct that the pre-existing rationing plan be applied to each area code (overlay code and relieved code) for a period of six months following the date of implementation of area code relief. 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 following area code relief. The Louisiana Commission may order a continuation of rationing for up to six months, but neither the state 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 NXX code rationing plan, resulting in uncertainty and a drain on resources.

25. BellSouth opposes the Louisiana Commission's request to continue rationing procedures for up to six months following area code relief.<sup>63</sup> In particular, BellSouth argues that this rationing request should be denied because the FCC has stated that rationing should only occur when an area code will exhaust before area code relief may be implemented.<sup>64</sup> We disagree. The FCC opposes *long term* rationing because it threatens competition and, as stated in prior state delegation orders,<sup>65</sup> the Louisiana Commission's request involves rationing on a short-term basis. BellSouth also claims that a grant of this type of request will cause pent-up demand. We believe, however, that the ability of carriers to request numbering resources outside of the rationing process should alleviate any concerns about pent-up demand during rationing.

#### IV. CONCLUSION AND ORDERING CLAUSE

26. We are mindful of the costs, confusion, and inconvenience that frequent area code changes can impose on consumers. The authority we have herein delegated to the above state commissions, we hope, will provide them the tools they need to address their states' concerns about numbering resource exhaust. For example, the authority to order thousands-block number pooling trials allows a state commission to address inefficiencies on the supply side of the telephone number assignment regime by ordering that LNP-capable carriers receive smaller blocks of numbers than they receive now. We are encouraged by the state commissions' willingness to work with the FCC and the Bureau to achieve national numbering resource optimization goals.

27. Accordingly, pursuant to sections 1, 4(i), and 251 of the Communications Act of 1934,

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<sup>62</sup> 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. This document is available at <<http://www.atis.org>>.

<sup>63</sup> BellSouth Comments at 4.

<sup>64</sup> *Id.*

<sup>65</sup> See, e.g., *Numbering Resource Optimization*, Order, 16 FCC Rcd at 15842, para. 42 (2001); *Numbering Resource Optimization*, Order, 16 FCC Rcd at 18875, para. 28 (2001).

as amended, 47 U.S.C. §§ 151, 154(i), and 251, and pursuant to sections 0.91, 0.291, 1.1 and 52.9(b) of the Commission's Rules, 47 C.F.R. §§ 0.91, 0.291, 1.1 and 52.9(b), IT IS ORDERED that the Petition of Representative Keith R. McCall and Members of the Northeast Delegation of the Pennsylvania House of Representatives Requesting that Additional Authority be Delegated to the Pennsylvania Public Utility Commission to Implement Additional Number Conservation Measures is GRANTED to the extent described herein; and the Petition of the Louisiana Public Service Commission for Expedited Decision for Additional Delegated Authority to Implement Number Conservation Measures Regarding 318 is GRANTED to the extent described herein.

FEDERAL COMMUNICATIONS COMMISSION

Jeffrey J. Carlisle  
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Common Carrier Bureau