

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

In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Implementation of the Local Competition	)	
Provisions of the Telecommunications Act of	)	CC Docket No. 96-98
1996	)	
	)	
Indiana Utility Regulatory Commission's	)	
Petition for Additional Delegated Authority to	)	NSD File No. L-01-273
Implement Number Optimization Measures;	)	
Indiana Utility Regulatory Commission's	)	
Request for Expedited Ruling and Second	)	
Supplement to Petition for Additional	)	
Delegated Authority to Implement Number	)	
Conservation Measures	)	
	)	
Minnesota Public Utilities Commission Petition	)	
for Additional Delegated Authority to Implement	)	NSD File No. L-00-206
Number Conservation Measures	)	
	)	
Missouri Public Service Commission's Petition	)	
for Delegation of Authority to Implement	)	NSD File No. L-01-275
Number Pooling in the 816 Area Code	)	
	)	
Petition of the Oklahoma Corporation	)	
Commission for Expedited Decision for	)	NSD File No. L-01-276
Delegation of Authority to Implement Number	)	
Conservation Measures	)	
	)	
Petition of the Tennessee Regulatory Authority	)	
for Additional Delegated Authority to Implement	)	NSD File No. L-01-277
Number Conservation Measures	)	
	)	
Vermont Public Service Board's Petition for	)	
Additional Delegated Authority to Implement	)	NSD File No. L-01-272
Number Conservation Measures	)	
	)	
Petition of the Public Service Commission of	)	
West Virginia for Additional Delegated	)	NSD File No. L-01-274
Authority to Implement Number Conservation	)	
Measures	)	

## ORDER

Adopted: March 13, 2001

Released: March 14, 2001

By the Chief, Common Carrier Bureau:

## I. INTRODUCTION

1. This Order addresses the petitions for additional delegated authority to implement numbering resource optimization strategies filed by the Indiana Utility Regulatory Commission (Indiana Commission),<sup>1</sup> the Minnesota Public Utilities Commission (Minnesota Commission),<sup>2</sup> the Missouri Public Service Commission (Missouri Commission),<sup>3</sup> the Oklahoma Corporation Commission (Oklahoma Commission),<sup>4</sup> the Tennessee Regulatory Authority (Tennessee Commission),<sup>5</sup> the Vermont Public Service Board (Vermont Commission),<sup>6</sup> and the West Virginia Public Service Commission (West Virginia Commission).<sup>7</sup>

2. In this Order, we conditionally grant the Indiana, Minnesota, Missouri, Oklahoma, Tennessee, Vermont and West Virginia Commissions the authority to institute thousands-block number pooling trials. We conditionally grant the West Virginia Commission the authority to hear and address claims of carriers seeking numbering resources outside of the rationing process and the authority to maintain rationing procedures for six months following implementation of area code relief. Many of the numbering resource optimization measures proposed by the state commissions were examined by the Federal Communications Commission (FCC) in the *Numbering Resource Optimization First Report and Order*, released on March 31, 2000,<sup>8</sup> and the *Numbering Resource Optimization Second*

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<sup>1</sup> *Indiana Utility Regulatory Commission's Petition for Additional Delegated Authority to Implement Number Optimization Measures*, filed September 20, 2000 (Indiana Commission 317 Petition); *Indiana Utility Regulatory Commission's Request for Expedited Ruling and Second Supplement to Petition for Additional Delegated Authority to Implement Number Conservation Measures*, filed October 11, 2000 (Indiana Commission 219 Petition) (collectively referred to as Indiana Commission 219 and 317 Petitions).

<sup>2</sup> *Minnesota Public Utilities Commission Petition for Additional Delegated Authority to Implement Number Conservation Measures*, filed August 29, 2000 (Minnesota Commission Petition).

<sup>3</sup> *Missouri Public Service Commission's Petition for Delegation of Authority to Implement Number Pooling in the 816 Area Code*, filed September 13, 2000 (Missouri Commission Petition).

<sup>4</sup> *Petition of the Oklahoma Corporation Commission for Expedited Decision for Delegation of Authority to Implement Number Conservation Measures*, filed September 20, 2000 (Oklahoma Commission Petition).

<sup>5</sup> *Petition of the Tennessee Regulatory Authority for Additional Delegated Authority to Implement Number Conservation Measures*, filed August 18, 2000 (Tennessee Commission Petition).

<sup>6</sup> *Vermont Public Service Board's Petition for Additional Delegated Authority to Implement Number Conservation Measures*, filed November 29, 2000 (Vermont Commission Petition).

<sup>7</sup> *Petition of the West Virginia Public Service Commission for Additional Delegated Authority to Implement Number Conservation Measures*, filed December 12, 2000 (West Virginia Commission Petition).

<sup>8</sup> *Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (2000) (*Numbering Resource Optimization First Report and Order*).

*Report and Order*, released on December 29, 2000<sup>9</sup> (collectively referred to as *Numbering Resource Optimization Orders*).

3. In the *Numbering Resource Optimization Orders*, the FCC adopted a number of administrative and technical measures that will allow it to monitor more closely the way numbering resources are used within the North American Numbering Plan (NANP) as well as 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 direct the North American Numbering Plan Administrator (NANPA) to reclaim unactivated or unused NXX codes<sup>10</sup> and 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.<sup>11</sup>

4. In the petitions under consideration in this Order, the state commissions request, among other measures, the authority to: (1) reclaim unused and underused thousands-blocks;<sup>12</sup> (2) audit carriers' use of numbering resources;<sup>13</sup> (3) enforce current standards for number allocation or set and enforce new standards;<sup>14</sup> (4) order submission of utilization and forecast data from all carriers including wireless providers, and audit such reporting;<sup>15</sup> and (5) order sequential number assignments.<sup>16</sup> Because the FCC, in the *Numbering Resource Optimization Orders*, has already addressed these specific issues, we dismiss these aspects of the state commissions' petitions as moot.<sup>17</sup>

5. In the *Numbering Resource Optimization First Report and Order*, the FCC also

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<sup>9</sup> *Numbering Resource Optimization*, Second Report and Order in CC Docket No. 99-200, Order on Reconsideration in CC Docket No. 96-98, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200 (rel. Dec. 29, 2000) (*Numbering Resource Optimization Second Report and Order*).

<sup>10</sup> *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7680. An NXX code, which is also known as a central office code, is the second three digits of a ten digit telephone number where N is a number 2 through 9 and X is a number 0 through 9. 47 CFR § 52.7(c); *see also* Central Office Code (NXX) Assignment Guidelines at 14.0, Draft (99-0127-023) (rev. Jan. 8, 2001). This document is available at <<http://www.atis.org>>.

<sup>11</sup> *Id.* at 7681, para. 238.

<sup>12</sup> Minnesota Commission Petition at 4; West Virginia Commission Petition at 2, 7-8.

<sup>13</sup> Oklahoma Commission Petition at 3.

<sup>14</sup> West Virginia Commission Petition at 1.

<sup>15</sup> West Virginia Commission Petition at 1.

<sup>16</sup> West Virginia Commission Petition at 8.

<sup>17</sup> We note that the West Virginia Commission, in its reply comments, withdrew its request for delegated authority to (1) establish utilization rates; (2) order sequential numbering; (3) order mandatory number utilization reporting; (4) reclaim unused NXX codes or blocks within such codes; and (5) audit carriers' use of numbering resources. *See* Reply Comments of the Public Service Commission of West Virginia at 20-21.

reiterated that previous state delegations of authority to implement number conservation measures were interim in nature and were to be superseded by national numbering conservation strategies adopted in the *Numbering Resource Optimization* proceeding.<sup>18</sup> Although we grant the above state commissions interim authority to institute certain optimization measures in their petitions, this limited grant of delegated authority should not be construed as a prejudgment of any of the remaining numbering resource optimization measures on which the FCC has sought public comment in the *Numbering Resource Optimization* proceeding.<sup>19</sup> Moreover, the state commissions receiving new delegations of thousands-block number pooling authority in this Order must conform to the national framework as articulated in the *Numbering Resource Optimization Orders*.

## II. BACKGROUND

6. Congress granted the FCC plenary jurisdiction over numbering administration.<sup>20</sup> Section 251(e)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (1996 Act), also allows the FCC to delegate to state commissions or other entities all or any portion of its jurisdiction over numbering administration.<sup>21</sup> The FCC's regulations generally require that numbering administration: (1) facilitate entry into the telecommunications marketplace by making numbering 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.<sup>22</sup> Moreover, if the FCC delegates any telecommunications numbering administration functions to any state or other entity, the state or entity must perform those functions in a manner consistent with these general requirements.<sup>23</sup>

7. On September 28, 1998, the FCC released the *Pennsylvania Numbering Order* delegating authority to state commissions to order NXX code rationing in conjunction with area code relief decisions, in the absence of industry consensus.<sup>24</sup> In that Order, the FCC also encouraged state commissions to seek further limited delegations of authority to implement number conservation measures.<sup>25</sup> In September 1999, the FCC addressed five petitions from state public utility

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<sup>18</sup> *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7581.

<sup>19</sup> *See Numbering Resource Optimization*, Notice of Proposed Rulemaking, 14 FCC Rcd 10322 (1999) (*Numbering Resource Optimization Notice*); *Numbering Resource Optimization First Report and Order*; *Numbering Resource Optimization Second Report and Order*.

<sup>20</sup> 47 U.S.C. § 251(e).

<sup>21</sup> *Id.* at § 251(e)(1).

<sup>22</sup> 47 C.F.R. § 52.9(a).

<sup>23</sup> *Id.* at § 52.9(b).

<sup>24</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 paras. 76-80 (where the FCC addressed petitions for clarification and reconsideration that were filed in response to the *Pennsylvania Numbering Order*).

<sup>25</sup> *Id.* at 19030.

commissions seeking delegations of authority to implement number conservation measures,<sup>26</sup> and in November 1999, the Common Carrier Bureau (Bureau) addressed five similar petitions from state public utility commissions.<sup>27</sup> Although these orders granted the state public utility commissions interim authority to institute many of the optimization measures they requested in their petitions, they did so subject to the caveat that these grants were to be superseded by national number conservation measures adopted in the FCC's *Numbering Resource Optimization* proceeding.<sup>28</sup> 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>29</sup> The Bureau subsequently released orders on July 20, 2000 and February 14, 2001 addressing fifteen state commissions' petitions and four state commissions' petitions, respectively, for additional delegated authority.<sup>30</sup> Because the requests in the instant petitions raise no new issues, the Bureau exercises its delegated authority to address these petitions herein.

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<sup>26</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) (*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*).

<sup>27</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) (*New Hampshire Delegation Order*); *Petition of the Ohio Public Utilities Commission for Delegation of Additional Authority to Implement Number Conservation Measures*, Order, 15 FCC Rcd 1268 (1999) (*Ohio Delegation Order*); *Petition of the Public Utility Commission of Texas for Expedited Decision for Authority to Implement Number Conservation Measures*, Order, 15 FCC Rcd 1285 (1999) (*Texas Delegation Order*); *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*).

<sup>28</sup> See *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7581; see also *California Delegation Order*, 14 FCC Rcd at 17486; *Connecticut Delegation Order*, 15 FCC Rcd at 1240-41; *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*, 15 FCC Rcd at 1252; *New York Delegation Order*, 14 FCC Rcd at 17468; *Ohio Delegation Order*, 15 FCC Rcd at 1268; *Texas Delegation Order*, 15 FCC Rcd at 1285; *Wisconsin Delegation Order*, 15 FCC Rcd at 1299.

<sup>29</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.

<sup>30</sup> *Numbering Resource Optimization*, Order, 15 FCC Rcd 23371 (2000); *Numbering Resource Optimization*, Order, CC Docket Nos. 99-200, 96-98 (2001).

### III. DISCUSSION

8. Numbering resource optimization measures are necessary to address the considerable burdens imposed on society by the inefficient use of numbers. Thus, the FCC and the Bureau have enlisted the state public utility commissions to assist in these efforts by delegating significant authority to them to implement certain measures within their local jurisdictions. Although we grant authority below to the state commissions to deploy various numbering resource optimization strategies in their states, we require the state commissions to abide by the same general requirements that the FCC and the Bureau have imposed on the other state commissions that have already received delegated authority to implement conservation measures. Thus, the state commissions, to the extent that they act 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 state commissions institute with regard to numbering administration not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers; and that the state commissions not unduly favor one telecommunications technology over another.<sup>31</sup>

9. Although the FCC has not mandated rate center consolidation in its *Numbering Resource Optimization Orders*, we 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.<sup>32</sup> We strongly encourage the state commissions to proceed as expeditiously as possible to consolidate rate centers.

10. Several parties commenting on the instant petitions urged the FCC to grant the petitions on the basis that state commissions require greater authority to implement number conservation measures in order to rectify the causes of area code exhaust.<sup>33</sup> Other parties suggested that we deny certain petitions on the basis that number conservation measures must be developed at the national level, and that the petitions do not provide an adequate basis on which to grant the requested delegations of authority.<sup>34</sup>

11. The grants of authority herein are 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.<sup>35</sup> Although we are giving the state commissions tools that may help to prolong the lives of existing area codes, the state commissions continue to bear the obligation of implementing area code relief when necessary, and we expect the state commissions to fulfill this obligation in a timely manner. Under no circumstances should consumers be precluded from receiving

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<sup>31</sup> See 47 C.F.R. § 52.9(a); see also 47 U.S.C. § 251(e)(1).

<sup>32</sup> *Numbering Resource Optimization Second Report and Order* at para. 8.

<sup>33</sup> See, e.g., Indiana Office of Utility Consumer Counselor's Notice of Support for Requested Authority Comments (addressing the Indiana Commission 219 and 317 Petitions) at 1-3; Comments of the Public Service Commission of Wisconsin at 2.

<sup>34</sup> See, e.g., Sprint Comments at 6-11; United States Telecom Association Comments at 5-6.

<sup>35</sup> *Pennsylvania Numbering Order*, 13 FCC Rcd at 19027.

telecommunications services of their choice from providers of their choice for 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. If the state commissions do not fulfill these obligations in a timely manner, we may be compelled to reconsider the authority being delegated to the states herein.

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

12. 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>36</sup> to different service providers. In the *Pennsylvania Numbering Order*, the FCC recognized that state number pooling trials could aid in developing national pooling implementation, architecture and administrative standards.<sup>37</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>38</sup> As a result, in prior state delegation orders, the FCC granted state commissions the authority to implement thousands-block number pooling trials.<sup>39</sup>

13. With the release of the *Numbering Resource Optimization First Report and Order*, the FCC adopted a nationwide system for allocating numbers in blocks of 1,000, rather than 10,000, wherever possible, and announced its intention to establish a plan for national rollout of thousands-block number pooling. The FCC determined that national thousands-block number pooling implementation will occur within nine months after the selection of a thousands-block number Pooling Administrator. The FCC stated that the existing delegations of authority to state commissions to implement thousands-block number pooling trials will continue until national thousands-block number pooling implementation occurs, and adopted a deadline for state commissions to bring their state trials into conformity with the national thousands-block number pooling framework.<sup>40</sup> Because the FCC recognized that thousands-block number pooling trials already underway may not conform to the national standards set forth in the *Numbering Resource Optimization First Report and Order*, the FCC gave state commissions until September 1, 2000, at the latest, to conform their thousands-block number pooling trials with the national framework. In response to petitions filed by the California and Maine Commissions seeking a waiver of the requirement that states conform their thousands-block number pooling trials to the FCC's national pooling framework by September 1, 2000,<sup>41</sup> the FCC

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<sup>36</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>37</sup> *Pennsylvania Numbering Order*, 13 FCC Rcd at 19027.

<sup>38</sup> *Numbering Resource Optimization Notice*, 14 FCC Rcd at 10383-84.

<sup>39</sup> See, e.g., *Numbering Resource Optimization*, Order, 15 FCC Rcd 23371 (2000).

<sup>40</sup> See *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7651-7658.

<sup>41</sup> California Public Utilities Commission and the People of the State of California Petition for Waiver, NSD File No. L-00-185 (filed August 9, 2000); Maine Public Utilities Commission Petition for Waiver, NSD File No. L-00-186 (filed August 21, 2000) (collectively referred to as California and Maine Commission Petitions).

granted the California and Maine Commissions a stay of the requirement to comply with the national pooling framework until December 31, 2000 or until the FCC ruled on the merits of the petitions, whichever date was sooner.<sup>42</sup> In the *Numbering Resource Optimization Second Report and Order*, the FCC granted the primary relief sought in the California and Maine Commission Petitions by allowing states the option of maintaining a higher utilization threshold once national pooling administration commences.<sup>43</sup>

### 1. General Delegation

14. Parties to these proceedings raise issues similar to those that the FCC addressed in its prior state delegation orders and in the *Numbering Resource Optimization Orders*. Because no new issues have been raised, we continue to exercise our delegated authority, at the Bureau level, to grant state commissions authority to implement thousands-block number pooling trials. In so doing, we seek to ensure that the benefits of thousands-block number pooling are realized as soon as feasible.<sup>44</sup> Although the FCC's national thousands-block number pooling framework implements pooling on a numbering plan area (NPA) by NPA basis within the largest 100 Metropolitan Statistical Areas (MSAs),<sup>45</sup> we will continue to grant states interim authority to implement pooling on an MSA by MSA basis within their states. A state may expand pooling to another MSA only after having implemented thousands-block number 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.

15. As indicated in the *Numbering Resource Optimization First Report and Order*, and in the orders delegating authority to implement thousands-block number pooling trials 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.<sup>46</sup> We reiterate that state commissions receiving new delegations of authority in this Order must conform their pooling trials to the national framework as articulated in the *Numbering Resource Optimization First Report and Order*.<sup>47</sup>

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<sup>42</sup> See *Number Resource Optimization*, Order, 15 FCC Rcd 17128, 17130 (rel. Aug. 31, 2000).

<sup>43</sup> *Numbering Resource Optimization Second Report and Order* at para. 44.

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

<sup>45</sup> 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, 12 FCC Rcd 8115, 8122 (1997). When implementing local number portability, the FCC established a phased implementation schedule based on MSAs. *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8394-95 (1996).

<sup>46</sup> See, e.g., *First Report and Order*, 15 FCC Rcd at 7651; *California Delegation Order*, 14 FCC Rcd at 17490-96; *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 York Delegation Order*, 14 FCC Rcd at 17470-76.

<sup>47</sup> *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7651.

16. We grant this authority subject to the conditions and safeguards enumerated by the FCC in the *Pennsylvania Numbering Order*, granting thousands-block number pooling authority to Illinois, and the *Numbering Resource Optimization First Report and Order*, which sets forth the national thousands-block number pooling framework.<sup>48</sup> Thus, we require that the state commissions prepare an NPA relief plan that may be adopted by the state commissions when numbering resources in the NPA are in imminent danger of being exhausted.<sup>49</sup> This criterion is not intended to require the state commissions to implement an NPA relief plan prior to initiating thousands-block number pooling. Rather, we require that the state commission be prepared to implement immediately a “back-up” NPA relief plan prior to the exhaustion of numbering resources.<sup>50</sup> Carriers should never be in the position of being unable to provide service to prospective customers because they do not have access to numbering resources. This criterion attempts to ensure that carriers continue to have numbering resources available to them in the event that a pooling trial does not stave off the need for area code relief.<sup>51</sup>

17. 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>52</sup> At the present time, we do not grant the state commissions the authority to require a carrier to acquire LNP solely for the purpose of being able to participate in thousands-block number pooling. 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>53</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>54</sup>

18. We direct the state commissions to conduct their thousands-block number pooling

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<sup>48</sup> *Pennsylvania Numbering Order*, 13 FCC Rcd at 19029-30.

<sup>49</sup> 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>50</sup> 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 number pooling in the 847 NPA).

<sup>51</sup> We intend to closely monitor situations where states may not be developing and implementing area code relief plans in a timely manner. *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7652.

<sup>52</sup> Wireless carriers 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>53</sup> See 47 C.F.R. § 52.23(b)-(c).

<sup>54</sup> *California Delegation Order*, 14 FCC Rcd at 17493.

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>55</sup> We also direct the state commissions to ensure that an adequate transition time is provided for carriers to implement thousands-block number pooling in their switches and administrative systems.

19. The FCC has received competitive bids for the selection of a national Pooling Administrator,<sup>56</sup> and we have determined that the term of the national Pooling Administrator will be five years.<sup>57</sup> In the interim, state commissions with thousands-block number pooling authority are responsible for thousands-block number pooling administration. This responsibility includes the selection of an interim thousands-block number Pooling Administrator to allocate thousands-blocks to carriers within the area in the state where a pooling trial is implemented pursuant to this Order. We note that the national Pooling Administrator will replace the interim pooling administrators who will transfer the pooling trials underway to the national pooling administration framework, thereby permitting these interim delegations of authority to state commissions to be superseded by the national pooling framework.<sup>58</sup>

## 2. Cost Recovery

20. Because the FCC's national cost recovery plan will not be in effect until national thousands-block number pooling implementation occurs, states conducting their own pooling trials must develop their own cost recovery mechanisms for the joint and carrier-specific costs of implementing and administering pooling trials within their states. The individual state cost-recovery schemes, however, must transition to the national cost-recovery plan when the latter becomes effective.<sup>59</sup> The national cost recovery plan will become effective after national thousands-block number pooling is implemented.

21. 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>60</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 portability on a competitively neutral basis.<sup>61</sup> In exercising the authority delegated to them, the state commissions must also ensure that costs of number pooling are recovered in a competitively neutral

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<sup>55</sup> Thousand Block (NXX-X) Pooling Administration Guidelines, Draft (INC 99-0127-023) (rev. June 2000). This document is available at <<http://www.atis.org>>.

<sup>56</sup> See *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7639-40.

<sup>57</sup> *Numbering Resource Optimization Second Report and Order* at para. 39.

<sup>58</sup> *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7651.

<sup>59</sup> See *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7652.

<sup>60</sup> *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7663-64.

<sup>61</sup> *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7665.

manner.<sup>62</sup> We encourage the state commissions to consider the *Numbering Resource Optimization First Report and Order* and *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.”<sup>63</sup>

22. Consistent with the FCC’s treatment of cost recovery in the *Telephone Number Portability* proceeding and *Numbering Resource Optimization First Report and Order*, we believe that even those carriers that cannot participate in thousands-block number pooling at this time will benefit from the more efficient use of numbering resources that pooling will facilitate and thus should share in bearing the costs associated with thousands-block number pooling. We encourage the state commissions to utilize the “road map” provided by the FCC in the *Numbering Resource Optimization First Report and Order* regarding cost recovery for thousands-block number pooling.<sup>64</sup>

### 3. Individual Petitions for Thousands-Block Number Pooling Authority

23. 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.<sup>65</sup> 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.<sup>66</sup> 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 the state commission of such special circumstances.<sup>67</sup>

#### a. Indiana Commission

24. The Indiana Commission requests authority to implement thousands-block number

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<sup>62</sup> 47 U.S.C. § 251(e)(2).

<sup>63</sup> *Telephone Number Portability*, Fourth Memorandum Opinion and Order on Reconsideration, CC Docket No. 95-116, RM 8535, FCC 99-151, at para. 32 (rel. July 16, 1999) (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.

<sup>64</sup> *Numbering Resource Optimization Notice*, 14 FCC Rcd at 10405-12.

<sup>65</sup> *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7652.

<sup>66</sup> *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7652.

<sup>67</sup> *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7652.

pooling in the 317 and 219 NPAs.<sup>68</sup> Based upon the information in the record, we delegate to the Indiana Commission the authority to implement a thousands-block number pooling trial in the 219 NPA. The Indiana Commission's filing demonstrates that the 219 NPA meets the three specific criteria articulated in the *Numbering Resource Optimization First Report and Order*: (1) the 219 NPA is in jeopardy; (2) the 219 NPA has a remaining life span of at least a year; and (3) the majority of wireline carriers in the 219 NPA are LNP capable.<sup>69</sup> We grant this authority to the Indiana Commission subject to the conditions and safeguards set forth above.

25. We also grant the Indiana Commission's request to implement thousands-block number pooling in the 317 NPA. The Indiana Commission informs us that, although the 317 NPA has a remaining life span of at least a year and is in one of the largest 100 MSAs, it is not currently in jeopardy.<sup>70</sup> The Indiana Commission, nevertheless, believes that "special circumstances" exist which warrant authorization to implement thousands-block number pooling in the 317 NPA. The Indiana Commission states that, given the highly concentrated metropolitan area encompassed by the 317 NPA, the implementation of thousands-block number pooling authority could help to ensure the longevity of the 317 NPA.<sup>71</sup> In addition, commenters believe that thousands-block number pooling in the 317 NPA would be beneficial.<sup>72</sup> We agree that thousands-block number pooling could greatly benefit the 317 NPA by postponing the need for area code relief in the Indianapolis MSA, and therefore grant the Indiana Commission the authority to implement a thousands-block number pooling trial in the 317 NPA. We grant this authority to the Indiana Commission subject to the conditions and safeguards set forth above. Although the 317 NPA is not currently in jeopardy, the Indiana Commission must take all necessary steps to establish an area code relief plan for the 317 NPA once numbering resources in the 317 NPA are in imminent danger of being exhausted. These grants of thousands-block number pooling authority extend to any new area codes implemented to relieve an existing area code in which pooling is taking place in Indiana.

#### **b. Minnesota Commission**

26. The Minnesota Commission requests authority to implement thousands-block number pooling in the 612, 651, 763, and 952 NPAs.<sup>73</sup> Based upon the information in the record, we delegate to the Minnesota Commission the authority to implement a thousands-block number pooling trial in all four NPAs. The Minnesota Commission's filings demonstrates that all four NPAs meet two of the three specific criteria articulated in the *Numbering Resource Optimization First Report and Order*: (1)

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<sup>68</sup> Indiana Commission 317 Petition at 2; Indiana Commission 219 Petition at 1.

<sup>69</sup> Indiana Commission 219 Petition at 3. The Indiana Commission claims that thousands-block number pooling could be maximized in the 219 NPA because rate center consolidation as well as additional area code relief options are actively being explored within that NPA. *Id.* at 3-4.

<sup>70</sup> Indiana Commission 317 Petition at 2.

<sup>71</sup> Indiana Commission 317 Petition at 2.

<sup>72</sup> *See, e.g.*, Indiana Office of Utility Consumer Counselor's Notice of Support for Requested Authority Comments at 1-3; Comments of the Public Service Commission of Wisconsin at 1-3.

<sup>73</sup> Minnesota Commission Petition at 4.

the NPAs have a remaining life span of at least a year; and (2) the NPAs encompass one of the largest 100 MSAs.<sup>74</sup> However, none of the NPAs are currently in jeopardy.

27. The Minnesota Commission asserts that the FCC should delegate pooling authority because the rise in local competition and advances in telecommunications services has caused a dramatic increase in the need for numbers, and thus, has escalated the rate of area code exhaust.<sup>75</sup> In particular, the 763 and 952 area codes have only recently been implemented and are expected to exhaust by 2005 and 2006 respectively.<sup>76</sup> We agree with the Minnesota Commission that, with the rapid growth in the areas of Minneapolis and St. Paul, it would be beneficial to implement pooling to prevent premature exhaust of the 612, 651, 763 and 952 NPAs. We thus find that special circumstances exist, and grant the Minnesota Commission the authority to implement thousands-block number pooling trials in these NPAs. We grant this authority to the Minnesota Commission subject to the conditions and safeguards set forth above. This grant of thousands-block number pooling authority extends to any new area code implemented to relieve an existing area code in which pooling is taking place.

### c. Missouri Commission

28. The Missouri Commission requests authority to implement thousands-block number pooling in the 816 NPA.<sup>77</sup> Based upon the information in the record, we delegate to the Missouri Commission the authority to implement a thousands-block number pooling trial in the 816 NPA. The Missouri Commission's filing demonstrates that the 816 NPA meets two of the three specific criteria articulated in the *Numbering Resource Optimization First Report and Order*: (1) the 816 NPA has a remaining life span of at least a year; and (2) the 816 NPA encompasses one of the largest 100 MSAs.<sup>78</sup> However, the 816 NPA is not currently in jeopardy. The Missouri Commission states that "special circumstances" warrant a grant of authority to implement thousands-block number pooling. The Missouri Commission believes that, although it already has delegated authority to implement pooling in the 314 NPA, initiating pooling in the 816 NPA first would be more effective due to the rapid depletion of numbering resources there.<sup>79</sup> In addition, as one commenter notes, the Missouri

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<sup>74</sup> Minnesota Commission Petition at 3. The 612 NPA is estimated to exhaust in the fourth quarter of 2004; the 651 NPA is estimated to exhaust in the fourth quarter of 2008; the 763 NPA is estimated to exhaust in the first quarter of 2005; and the 952 NPA is estimated to exhaust in the second quarter of 2006. *Id.* at 4, 6. Each NPA encompasses Minneapolis, Minnesota, which is in the top 100 MSAs. *Id.* at 6.

<sup>75</sup> Minnesota Commission Petition at 4. In fact, according to the 2000 COCUS forecast, in December 1999, the 612 NPA was estimated to exhaust in the first quarter of 2009. By April 2000, that estimate changed to the fourth quarter of 2004. *See* 2000 COCUS and NPA Exhaust Analysis (updated May 23, 2000).

<sup>76</sup> Minnesota Commission Petition at 4, 6. In addition, the Minnesota Commission argues that its provision of area code relief for the 612 NPA demonstrates that the numbering needs of non-LNP capable carriers are being addressed. *See* Reply Comments of the Minnesota Public Utilities Commission at 4.

<sup>77</sup> Missouri Commission Petition at 1.

<sup>78</sup> Missouri Commission Petition at 3. The 816 NPA is estimated to exhaust in the first quarter of 2002 and encompasses Kansas City, Missouri, which ranks 28th out of the top 100 MSAs. *Id.* at 3.

<sup>79</sup> Missouri Commission Petition at 3.

Commission plans to implement a new area code overlay (975 NPA) in the 816 NPA (effective on February 16, 2002).<sup>80</sup> Such action further evidences the Missouri Commission's concern over depleting numbering resources in the 816 NPA. We agree with the Missouri Commission that thousands-block number pooling could greatly benefit the 816 NPA by extending the life of that NPA as well as the overlay area code, and therefore grant the Missouri Commission the authority to implement a thousands-block number pooling trial in the 816 NPA. We grant this authority to the Missouri Commission subject to the conditions and safeguards set forth above. This grant of thousands-block number pooling authority extends to any new area code implemented to relieve an existing area code in which pooling is taking place.

**d. Oklahoma Commission**

29. The Oklahoma Commission requests the authority to implement thousands-block number pooling in Oklahoma.<sup>81</sup> The Oklahoma Commission's filing demonstrates that the 405 NPA and the 918 NPA do not meet the requirements set forth by the FCC in the *Numbering Resource Optimization Order*. Although the Oklahoma Commission informs us that the 405 and 918 NPAs have a remaining life span of at least one year,<sup>82</sup> and each encompasses one of the largest 100 MSAs, neither the 405 NPA nor the 918 NPA is currently in jeopardy.<sup>83</sup>

30. However, the Oklahoma Commission asserts that number conservation measures are needed because, in recent years, the demand for numbers in Oklahoma's largest metropolitan areas has rapidly increased.<sup>84</sup> For the 405 NPA, the Oklahoma Commission insists that the implementation of thousands-block number pooling will help to prolong the life of the 405 NPA by efficiently allocating numbers in that NPA.<sup>85</sup> Because of the rapid increase in demand for numbers, we find that "special circumstances" exist to grant the Oklahoma Commission the authority to implement thousands-block number pooling trials in the 405 and 918 NPAs. Accordingly, we grant this authority to the Oklahoma Commission subject to the conditions and safeguards set forth above. This grant of thousands-block number pooling authority extends to any new area code implemented to relieve an existing area code in which pooling is taking place. We emphasize that the Oklahoma Commission must take all necessary steps to establish and implement area code relief plans for the 405 and 918 NPAs once numbering

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<sup>80</sup> See Sprint Comments at 15.

<sup>81</sup> Oklahoma Commission Petition at 3-4, 6.

<sup>82</sup> Oklahoma Commission Petition at 6, 8. The 405 and 918 NPAs are both estimated to exhaust in the third quarter of 2002. *Id.* at 4.

<sup>83</sup> Oklahoma Commission Petition at 6, 8. The 405 NPA encompasses Oklahoma City, which is in the top 100 MSAs. *Id.* at 6. The 918 NPA encompasses Tulsa, which is also in the top 100 MSAs. *Id.* at 8.

<sup>84</sup> Oklahoma Commission Petition at 2. For example, as of April 1999, the projected exhaust date for the 405 NPA was the third quarter of 2003. A year later, in April 2000, that projected exhaust date had moved up one year to the third quarter of 2002. *Id.* at 4.

<sup>85</sup> Oklahoma Commission Petition at 7. The Oklahoma Commission argues that the current system for allocating numbers is the primary cause of rapid number exhaust in Oklahoma. For example, in 2000, a new CLEC entering the central Oklahoma telecommunications market received 360,000 telephone numbers (blocks of 10,000 numbers per rate center for 36 of Oklahoma's rate centers) as its initial number supply. *Id.* at 5.

resources in these NPAs are in imminent danger of being exhausted. In addition, the Oklahoma Commission must first implement thousands-block number pooling in a single MSA, and may expand pooling to the other MSA only after pooling has been fully implemented in the initial MSA and after carriers have had sufficient time to modify their databases and upgrade their switch software.

**e. Tennessee Commission**

31. The Tennessee Commission requests the authority to implement thousands-block number pooling in the 615 NPA.<sup>86</sup> Based upon the information in the record, we delegate to the Tennessee Commission the authority to implement a thousands-block number pooling trial in the 615 NPA. The Tennessee Commission's petition demonstrates that the 615 NPA meets the three specific criteria articulated in the *Numbering Resource Optimization Order*: (1) the 615 NPA is in jeopardy; (2) the 615 NPA has a remaining life span of at least a year; and (3) the 615 NPA encompasses one of the largest 100 MSAs.<sup>87</sup> We grant this authority to the Tennessee Commission subject to the conditions and safeguards set forth above. This grant of thousands-block number pooling authority extends to any new area code implemented to relieve an existing area code in which pooling is taking place.

**f. Vermont Commission**

32. The Vermont Commission requests the authority to implement thousands-block number pooling in Vermont.<sup>88</sup> The Vermont Commission's filing demonstrates that the 802 NPA does not meet the requirements set forth by the FCC in the *Numbering Resource Optimization Order*. Although the 802 NPA has a remaining life span of at least one year,<sup>89</sup> and, data from the Local Exchange Routing Guide indicates that a majority of wireline carriers in the 802 NPA are LNP capable,<sup>90</sup> the 802 NPA is not currently in jeopardy.

33. The Vermont Commission argues that "special circumstances" exist to justify FCC authorization of thousands-block number pooling in the 802 NPA. The Vermont Commission states that, although Vermont is a rural state, it is susceptible to premature number exhaust.<sup>91</sup> In particular, when one carrier requested 98 NXX codes recently, the 802 NPA's year of projected exhaust changed from 2011 to 2007. The Vermont Commission further asserts that thousands-block number pooling

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<sup>86</sup> Tennessee Commission Petition at 2.

<sup>87</sup> Tennessee Commission Petition at 2-3. According to the Tennessee Commission, the 615 NPA has a projected exhaust date in the first quarter of 2002 and encompasses the city of Nashville, which is ranked 51st out of the top 100 MSAs. *Id.* at 2-3. In addition, the Tennessee Commission stated that during a conference call on February 15, 2001, industry participants agreed to voluntarily implement pooling in the 615 NPA commencing May 4, 2001. *See* Tennessee Regulatory Authority's Reply Comments at 15.

<sup>88</sup> Vermont Commission Petition at 1.

<sup>89</sup> Vermont Commission Petition at 2. The 802 NPA is estimated to exhaust in 2007. *Id.*

<sup>90</sup> *See* Traffic Routing Administration, *Local Exchange Routing Guide* (updated Jan. 2001).

<sup>91</sup> Vermont Commission Petition at 1.

would avoid or postpone the unnecessary cost and disruption of a new area code.<sup>92</sup> We agree with the Vermont Commission that thousands-block number pooling could postpone the need for area code relief in the 802 NPA, and therefore grant the Vermont Commission the authority to implement a thousands-block number pooling trial in the 802 NPA. We grant this authority to the Vermont Commission subject to the conditions and safeguards set forth above. This grant of thousands-block number pooling authority extends to any new area code implemented to relieve an existing area code in which pooling is taking place.

**g. West Virginia Commission**

34. The West Virginia Commission requests the authority to implement thousands-block number pooling in the 304 NPA.<sup>93</sup> Based upon the information in the record, we delegate to the West Virginia Commission the authority to implement a thousands-block number pooling trial in the 304 NPA. The West Virginia Commission's petition demonstrates that the 304 NPA meets the three specific criteria articulated in the *Numbering Resource Optimization Order*: (1) the 304 NPA is in jeopardy; (2) the 304 NPA has a remaining life span of at least a year; and (3) a majority of wireline carriers in the 304 NPA are LNP capable.<sup>94</sup> We grant this authority to the West Virginia Commission subject to the conditions and safeguards set forth above. This grant of thousands-block number pooling authority extends to any new area code implemented to relieve an existing area code in which pooling is taking place.

**B. Hear and Address Claims of Carriers Outside of the Area Code Rationing Process**

35. The West Virginia Commission seeks authority to respond to requests from individual carriers seeking to obtain NXX codes outside of the rationing process.<sup>95</sup> In prior orders, the FCC has granted state commissions the authority to hear and address such claims from carriers seeking NXX codes outside of the rationing process.<sup>96</sup> We similarly grant the West Virginia Commission the authority to hear and address such claims. We conclude that such delegation will assist the West Virginia Commission in ensuring that customers in their states retain their choice of service providers.

36. If requested, the West Virginia 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

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<sup>92</sup> Vermont Commission Petition at 2.

<sup>93</sup> West Virginia Commission Petition at 1, 5.

<sup>94</sup> West Virginia Commission Petition at 5. According to the West Virginia Commission, on May 10, 2000, the NANPA declared the 304 NPA to be in jeopardy; the 304 NPA has a projected exhaust date in the third quarter of 2002; and the largest incumbent local exchange carrier and most of the competitive local exchange carriers are LNP-capable. *Id.* at 5.

<sup>95</sup> West Virginia Commission Petition at 2, 8-9.

<sup>96</sup> See, e.g., *California Delegation Order*, 14 FCC Rcd at 17500-01; *Massachusetts Delegation Order*, 14 FCC Rcd at 17462-63.

use extraordinary and unreasonably costly measures to provide service.<sup>97</sup> This grant of authority further empowers the West Virginia 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 West Virginia 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 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 to provide service.<sup>98</sup> Further, although we delegate to the West Virginia 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 such information.<sup>99</sup> This grant of authority empowers the West Virginia Commission to ensure that carriers in dire need of numbering resources can obtain the numbering resources necessary to continue to provide service to their prospective customers.

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

37. The West Virginia Commission also requests the authority to maintain pre-NPA relief NXX code rationing measures for six months following implementation of area code relief.<sup>100</sup> In prior orders, the Commission granted similar authority to state public utility commissions.<sup>101</sup> The Commission reasoned that a continuation of rationing after area code relief neither contradicts the *Pennsylvania Numbering Order*,<sup>102</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 West Virginia Commission the authority to order continuation of a rationing plan for six months following implementation of area code relief.

38. Where area code relief takes the form of an area code split, we grant the West Virginia 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>103</sup> Correspondingly, if the

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<sup>97</sup> *Pennsylvania Numbering Order*, 13 FCC Rcd at 19039.

<sup>98</sup> *Id.*

<sup>99</sup> *See Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7605-09.

<sup>100</sup> West Virginia Commission Petition at 1, 6.

<sup>101</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>102</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.

<sup>103</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.

area code relief is in the form of an all-services overlay, the West Virginia 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 West Virginia 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 code rationing plan, resulting in uncertainty and a drain on resources.

#### **D. Additional NXX Code Rationing Authority**

39. The West Virginia Commission also requests the authority to order rationing as an area code nears jeopardy.<sup>104</sup> The West Virginia Commission may currently order and revise rationing processes where they have ordered area code relief and established a relief date, and the industry has been unable to reach consensus on a rationing plan.<sup>105</sup> As determined in the *Pennsylvania Numbering Order*, however, 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.<sup>106</sup> 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.<sup>107</sup> Further, state commissions may not use rationing as a substitute for area code relief.<sup>108</sup> Because the West Virginia Commission is requesting authority to adopt rationing measures prior to having decided on a specific plan for area code relief, absent a demonstration of such extreme circumstances, we decline to reach this aspect of the state commission's petition. We believe that the authority we are herein granting to the West Virginia Commission, and the authority the FCC granted the state commissions in the *Numbering Resource Optimization Orders* to implement other relief measures, will provide it with the tools needed to address inefficiencies in number use in West Virginia.

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<sup>104</sup> West Virginia Commission Petition at 6.

<sup>105</sup> See *Pennsylvania Numbering Order*, 13 FCC Rcd at 19026.

<sup>106</sup> *Pennsylvania Numbering Order*, 13 FCC Rcd at 19025. In the *Numbering Resource Optimization Second Report and Order*, the FCC reaffirmed its commitment to the guidelines enumerated in the *Pennsylvania Numbering Order* regarding the rationing of NXX codes. *Numbering Resource Optimization Second Report and Order* at paras. 61, 78.

<sup>107</sup> See, e.g., *Numbering Resource Optimization Second Report and Order* at para. 61; *Florida Delegation Order*, 14 FCC Rcd at 17522; *Massachusetts Delegation Order*, 14 FCC Rcd at 17464; *New York Delegation Order*, 14 FCC Rcd at 17481-82; but see *California Delegation Order*, 14 FCC Rcd at 17503-04 (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).

<sup>108</sup> *Pennsylvania Numbering Order*, 13 FCC Rcd at 19027.

#### IV. CONCLUSION AND ORDERING CLAUSES

40. 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. Specifically, 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 now do. In addition, the authority to hear and address claims from carriers seeking NXX codes outside of the rationing process empowers the state commissions to ensure that carriers in dire need of numbering resources can obtain the numbering resources necessary to continue to provide service to their prospective customers. We are encouraged by these states' willingness to work with the FCC and the Bureau to achieve national numbering resource optimization goals.

41. 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 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 Indiana Utility Regulatory Commission's Petition for Additional Delegated Authority to Implement Number Optimization Measures and Indiana Utility Regulatory Commission's Request for Expedited Ruling and Second Supplement to Petition for Additional Delegated Authority to Implement Number Conservation Measures are GRANTED to the extent described herein; the Minnesota Public Utilities Commission Petition for Additional Delegated Authority to Implement Number Conservation Measures is GRANTED IN PART to the extent described herein; the Missouri Public Service Commission's Petition for Delegation of Authority to Implement Number Pooling in the 816 Area Code is GRANTED to the extent described herein; the Petition of the Oklahoma Corporation Commission for Expedited Authority to Implement Number Conservation Measures is GRANTED to the extent described herein; the Petition of the Tennessee Regulatory Authority for Additional Delegated Authority to Implement Number Conservation Measures is GRANTED to the extent described herein; the Vermont Public Service Board's Petition for Additional Delegated Authority to Implement Number Conservation Measures is GRANTED to the extent described herein; and the Petition of the Public Service Commission of West Virginia for Additional Delegated Authority to Implement Number Conservation Measures is GRANTED IN PART and DENIED IN PART to the extent described herein.

FEDERAL COMMUNICATIONS COMMISSION

Dorothy T. Attwood  
Chief, Common Carrier Bureau