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 1996	)	CC Docket No. 96-98
	)	
Petition of the Indiana Utility Regulatory Commission for Delegated Authority to Implement Additional Number Conservation Measures	)	WC Docket No. 08-66
	)	
Petition of the Mississippi Public Service Commission for Delegated Authority to Implement Number Conservation Measures	)	
	)	
Petition of the Pennsylvania Public Utility Commission for Delegated Authority to Implement Number Conservation Measures	)	
	)	
Petition of the Regulatory Commission of Alaska for Delegated Authority to Implement Number Conservation Measures	)	

ORDER

Adopted: May 18, 2010 **Released: May 18, 2010**

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant petitions filed by the Indiana Utility Regulatory Commission (Indiana URC), the Mississippi Public Service Commission (Mississippi PSC), and the Regulatory Commission of Alaska (Alaska Commission), and grant in part a petition filed by the Pennsylvania Public Utility Commission (Pennsylvania PUC) for delegated authority to implement mandatory thousands-block number pooling (pooling).[1] For reasons discussed below, we find that petitioners have demonstrated

[1] *See* Petition for Delegated Authority by the Indiana Utility Regulatory Commission, WC Docket No. 08-66, CC Docket No. 99-200 (filed Mar. 20, 2008) (Indiana Petition); Mississippi Public Service Commission's Petition for Delegated Authority to Implement Number Conservation Measures, CC Docket Nos. 99-200, 96-98 (filed September 25, 2008) (Mississippi Petition); Pennsylvania Public Utility Commission's Petition for Delegated Authority to Implement Number Conservation Measures, CC Docket No. 99-200 (filed July 13, 2009) (Pennsylvania Petition); and Petition of the Regulatory Commission of Alaska for Delegated Authority to Implement Number Conservation Measures, CC Docket No. 99-200 (filed October 16, 2009) (Alaska Petition.).

special circumstances justifying delegation of authority to require pooling in numbering plan areas (NPAs) forecasted to exhaust within the next five years. In granting these petitions, we permit these states to optimize numbering resources and further extend the lives of the NPAs in question. This extension will shield consumers from the unnecessary expense and confusion related to premature area code splits or overlays due to inefficient utilization of existing resources. Specifically, we grant the following:

- To the Indiana URC, authority to implement mandatory pooling in the 765 and 812 NPAs.
- To the Mississippi PSC, authority to implement mandatory pooling in the 662 NPA.
- To the Pennsylvania PUC, authority to implement mandatory pooling in the 215/267,[2] 570, 610/484, 717, and 814 NPAs.[3]
- To the Alaska Commission, authority to implement mandatory pooling in the 907 NPA.

II. BACKGROUND

2. *Commission Rules and Orders*. In the *NRO First Report and Order*, the Commission determined that implementation of pooling is essential to extending the life of the North American Numbering Plan (NANP) by making the assignment and use of NXX codes more efficient.[4] Therefore, the Commission adopted national thousands-block number pooling as a valuable mechanism to remedy the inefficient allocation and use of numbering resources and required thousands-block pooling in the largest 100 Metropolitan Statistical Areas (MSAs) within nine months of selection of a pooling administrator.[5] The Commission also allowed state commissions previously delegated authority to implement thousands-block pooling to continue to do so.[6] The Commission stated that it would continue to consider state petitions for delegated authority to implement pooling outside the top 100 MSAs on a

[2] By an Order drafted May 21, 1998, the Pennsylvania PUC directed that the 215 and 610 NPAs receive individual overlay NPAs. The 215 NPA received the 267 overlay NPA and the 610 NPA received the 484 overlay NPA. *See* Pennsylvania Petition at 3, n. 2.

[3] The Pennsylvania PUC also requests mandatory pooling in the 412, 878, and 724 NPAs. As discussed below, we deny that request.

[4] *Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7625, para. 122 (2000) (*NRO First Report and Order*). The NANP was established over 50 years ago by AT&T to facilitate the expansion of long distance calling. The NANP, the basic numbering scheme for the United States, Canada, and most Caribbean countries, is based on a 10-digit dialing pattern, NPA-NXX-XXXX, where N represents any digit from 2 through 9 and X represents any digit from 0 through 9. Thousands-block number pooling is a numbering resource optimization measure in which 10,000 numbers in an NXX are divided into ten sequential blocks of 1,000 numbers and allocated to different service providers (or different switches) within a rate center. *See Numbering Resource Optimization*, CC Docket Nos. 99-200, 95-116, Fourth Report and Order,18 FCC Rcd 12472, 12474, para. 5 (2003) (*NRO Fourth Report and Order*).

[5] *See NRO First Report and Order*, 15 FCC Rcd at 7625, 7644-45, paras. 122, 157-158. MSAs, designated by the Bureau of Census, follow geographic borders and are defined using statistics that are widely recognized as indicative of metropolitan character. *See Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Memorandum Opinion and Order, 12 FCC Rcd 8115, 8122, para. 17 n.26 (1997).

[6] Section 251(e)(1) of the Communications Act of 1934, as amended (the Act), allows the Commission to delegate to state commissions jurisdiction over numbering administration. 47 U.S.C. § 251(e)(1).

case-by-case basis.[7] The Commission delegated authority to the Common Carrier Bureau, now the Wireline Competition Bureau (Bureau), to rule on state petitions for delegated authority to implement number conservation measures, including pooling, where no new issues were raised.[8]

3. In implementing pooling, the Commission said that state petitions for delegated authority must demonstrate that: (1) an NPA in the state is in jeopardy; (2) the NPA in question has a remaining life span of at least one year; and (3) the NPA is in one of the largest 100 MSAs or, alternatively, the majority of wireline carriers in the NPA are local number portability (LNP)-capable.[9] The Commission recognized that there may be "special circumstances" where pooling would be of benefit in NPAs that do not meet all three criteria and said that pooling may be authorized in such an NPA upon a satisfactory showing by the state commission of such special circumstances.[10]

4. National rollout of pooling commenced on March 15, 2002, in the 100 largest MSAs and area codes previously subject to pooling pursuant to state delegation orders.[11] All carriers operating within the 100 largest MSAs, except those specifically exempted by the order, were required to participate in pooling in accordance with the national rollout schedule.[12] The Commission specifically exempted from the pooling requirement rural telephone companies and Tier III Commercial Mobile Radio Service (CMRS) providers that have not received a specific request for the provision of LNP from another carrier, as well as carriers that are the only service provider receiving numbering resources in a given rate center.[13] In exempting certain carriers from the pooling requirement, the Commission recognized that pooling is most effective in areas where competition exists and confirmed that "it is reasonable to require LNP only in areas where competition dictates its demand."[14] The Commission directed the North American Numbering Plan Administrator (NANPA) to cease assignment of NXX codes to carriers after they were required to participate in pooling.[15] Instead, carriers required to participate in pooling would receive numbering resources from the national thousands-block number

[7] *See NRO First Report and Order,* 15 FCC Rcd at 7651, para. 169. At the time the *NRO First Report and Order* was adopted, several states already had delegated authority to implement thousands-block pooling and several more states had petitions pending with the Commission. *Id.* The Commission observed that the national pooling framework, when adopted, would supersede the interim delegations of authority to state commissions. *Id.*

[8] *See NRO First Report and Order,* 15 FCC Rcd at 7651-52, para. 170.

[9] *See id.* These three criteria were adopted before implementation of nationwide thousands-block number pooling and before the Commission recognized that full LNP capability is not necessary for participation in pooling. *See NRO Fourth Report and Order*, 18 FCC Rcd at 12476, para. 11 (recognizing that full LNP capability is not necessary for participation in pooling but the underlying architecture, Location Routing Number (LRN), must be deployed); *see also Numbering Resource Optimization*, CC Docket No. 99-200, Third Report and Order and Second Order on Reconsideration, 17 FCC Rcd 252, 262, para. 21 n.47 (2001) (*NRO Third Report and Order*). In the *NRO Third Report and Order*, the Commission rejected a request to delegate authority to the states to determine on a case-by-case basis whether to extend pooling requirements. *NRO Third Report and Order*, 17 FCC Rcd at 262, para. 21. The Commission explained that uniform national standards for pooling are necessary to minimize confusion and additional expense related to compliance with inconsistent regulatory requirements. *Id.*

[10] *See NRO First Report and Order*, 15 FCC Rcd at 7651-52, para. 170.

[11] *Numbering Resource Optimization*, CC Docket No. 99-200, Order, 17 FCC Rcd 7347, 7348, paras. 3-4 (2002) (*Pooling Rollout Order*).

[12] *See NRO Fourth Report and Order*, 18 FCC Rcd at 12477, para. 14.

[13] *See id*. at 12473, para. 1. Tier III carriers are non-nationwide CMRS providers with no more than 500,000 subscribers as of the end of 2001. *See id*. at 12479 n.50.

[14] *Id*. at 12476, 12478, paras. 11, 17.

[15] *See id.* at 12477, para. 14.

Pooling Administrator responsible for administering numbers in thousands-blocks.[16]

5. As discussed above, the Commission concluded that mandatory pooling should initially take place in the largest 100 MSAs.[17] In the *Pooling Rollout Order*, the Bureau explained that it would consider extending pooling outside of the top 100 MSAs after pooling was implemented in the top 100 MSAs.[18] The Bureau also encouraged voluntary pooling in areas adjoining qualifying MSAs.[19] Since completion of the national rollout of pooling in the top 100 MSAs, the Commission has extended pooling in response to petitions from state utility commissions requesting permission to expand the scope of thousands-block pooling.[20]

6. *The Petitions*. Between March 2008 and October 2009, four state utility commissions filed petitions requesting permission to expand the scope of pooling.[21] The petitions are similar in that each state asserts that mandatory pooling will protect consumers from the unnecessary expense and confusion related to area code splits or overlays.[22] In Mississippi and Pennsylvania there is an optional pooling mechanism that is being underutilized by the carriers.[23] Accordingly, state petitioners argue that mandatory pooling will likely postpone the need for area code relief in their respective NPAs.

III. DISCUSSION

7. *Pooling Authority Criteria*. As noted above, we apply three criteria to state petitions seeking delegated authority to implement pooling. With regard to the first criterion – that an NPA is in

[16] *See id.*

[17] *See NRO First Report and Order*, 15 FCC Rcd at 7645, para. 158.

[18] *Pooling Rollout Order*, 17 FCC Rcd at 7348, para. 3.

[19] *See id.* at 7348, para. 4

[20] *See Numbering Resource Optimization*, CC Docket No. 99-200, Order and Fifth Further Notice of Proposed Rulemaking, 21 FCC Rcd 1833 (2006); *Numbering Resource Optimization*, CC Docket 99-200, Order, 21 FCC Rcd 13188 (2006) (*Second Pooling Order*).

[21] Specifically, the Indiana URC requests delegated authority for mandatory pooling in the 765 and 812 NPAs; the Mississippi PUC in the 662 NPA; the Pennsylvania PUC in the 215/267, 412/878/724, 570, 610/484, 717, and 814 NPAs; and the Alaska Commission in the 907 NPA. On December 18, 2009, the Bureau released a public notice seeking comment on the Alaska Petition. *Wireline Competition Bureau Seeks Comment on Petition of Regulatory Commission of Alaska for Delegation of Authority to Implement Number Conservation Measures*, Public Notice, 24 FCC Rcd 14615 (2009). Comments in support of the Alaska Petition were filed by the Nebraska Public Service Commission (Nebraska PSC) and General Communication, Inc. (GCI) on January 4, 2010. In addition, the Pennsylvania Office of Consumer Advocate, Verizon and Verizon Wireless, Members of the Pennsylvania House of Representatives and AT&T Services, Inc. filed *ex parte* letters in support of the Pennsylvania PUC's request for delegated authority. *See* Letter from Joel Cheskis, Esq.., Office of Consumer Advocate, to Ms. Marlene Dortch, Office of Secretary, FCC, dated Feb.23, 2010 (Pennsylvania OCA Letter); Letter from Ann D. Berkowitz, Director, Federal Regulatory Affairs, to Marlene Dortch, Secretary, FCC, dated Apr. 19, 2010 (urging the Commission to expeditiously approve the Pennsylvania petition because three of Pennsylvania's ten area codes are near exhaustion); Letter from the Honorable Joseph Preston, Jr,, Chairman and the Honorable Robert W. Godshall, Minority Chairman, Pennsylvania House of Representatives, to Ms. Marlene Dortch, Office of Secretary, FCC dated Apr. 21, 2010 (imploring the Commission to promptly delegate authority to the Pennsylvania PUC to implement number conservation measures in the 570, 814 and 717 NPAs); and Letter from Jamie M. Tan, Director, Federal Regulatory, AT&T to Ms. Marlene Dortch, Secretary, FCC dated Apr. 27, 2010.

[22] *See* Indiana Petition at 2; Mississippi Petition at 1; Pennsylvania Petition at 1; and Alaska Petition at 1.

[23] *See* Mississippi Petition at 3; Pennsylvania Petition at 9.

jeopardy status -- we note that only the 507 NPA in Pennsylvania presents a jeopardy situation as defined by industry standards.[24] Therefore, this criterion for delegation of authority has not been satisfied for the remaining NPAs. With regard to the second criterion, we note that most of the NPAs in question have a remaining life span of at least one year and thus satisfy the test.[25] Finally, the third criterion, that the NPA is in one of the largest 100 MSAs or the majority of wireline carriers in the NPA are LNP-capable, is not met by the Alaska Commission.[26] Thus, we conclude that petitioners have not met all the Commission's criteria for delegation of authority to implement mandatory pooling. However, given the current requirements for pooling authority and in light of the record before us, we find that the "special circumstances" discussed below do justify delegation of authority to require pooling in the specified NPAs.

7. *Special Circumstances Showing*. We conclude that each of the four state commissions has demonstrated special circumstances warranting delegation of authority to require number pooling.

8. **Indiana.** The Indiana URC demonstrates that the 765 and 812 NPAs are experiencing an increase in demand for numbering resources, coupled with low utilization rates. Specifically, the Indiana URC reports that although the 765 NPA is bordered by the Indianapolis MSA, it serves mostly rural communities and small to mid-sized cities and towns and contains three of Indiana's fastest growing counties.[27] Similarly, although the 812 NPA is bordered by three of the top 100 MSAs, it serves rural areas and small to mid-sized cities and towns.[28] In addition, the Indiana URC reports that despite steady demand for full NXX codes, the 765 and 812 NPAs have the lowest utilization rates of all its NPAs, at 29 and 35 percent respectively.[29] The 765 and 812 NPAs in Indiana are projected to exhaust in the first quarters of 2014 and 2011, respectively.[30]

9. **Mississippi.** The Mississippi PUC indicates there are an increasing number of requests for prefixes in rural areas of the state due to "increased competition, targeted economic expansion and emerging technologies."[31] It indicates that the percentage of assigned numbers for the 662 NPA is only 25.7 percent, even though approximately 664 NXX codes of an assignable 779 codes have been issued to support a population base of 1,177,829.[32] In addition, the Mississippi PUC reports that, despite its best efforts, carriers in the state are reluctant to participate in voluntary pooling in rate centers outside the top 100 MSAs and continue to request full NXX codes.[33] The 662 NPA in Mississippi is expected to exhaust

[24] The NPA Code Relief Planning and Notification Guidelines (ATIS-0300061) defines a jeopardy NPA as existing "when the forecasted and/or actual demand for CO Code resources will exceed the known supply during the planning/implementation interval for relief. Accordingly, pending exhaust of CO Code resources within an NPA does not represent a jeopardy condition if NPA relief has been or can be planned and the additional CO Codes associated with the NPA will be implemented in time to satisfy the need for new CO codes."

[25] Indiana Petition at 4; Mississippi Petition at 3; Alaska Petition at 2; NANPA 2005 Report**.**

[26] Alaska Petition at 2 (noting that most wireline providers in Alaska are not LNP capable); the remaining petitioners state that they meet this criterion. Indiana Petition at 4; Mississippi Petition at 4; Pennsylvania Petition at 10.

[27] Indiana Petition at 3-4.

[28] *Id*. at 3.

[29] *Id*. at 4-5.

[30] *Id*. at 3-4.

[31] Mississippi Petition at 3.

[32] *Id.* at 4.

[33] *Id.* at 3.

in the fourth quarter of 2011.[34]

10. **Pennsylvania.** The Pennsylvania PUC, which is facing NPA Relief measures in two of its area codes,[35] reports that there have been an increasing number of requests for NXX codes in rural areas of the state. [36] It states that utilization ranges from 39 percent in optional pooling rate centers to 59.3 percent in mandatory pooling rate centers.[37] The Pennsylvania PUC also reports that, despite its best efforts to encourage carriers to request unused numbers from existing carriers, carriers are reluctant to do so and continue to request full NXX codes.[38]

11. **Alaska.** The Alaska Commission explains that in its state, an NXX code designates a location and there are over two hundred locations or rate centers with small populations and low number utilization rates.[39] It maintains that the state is experiencing increased demand, due to the expansion of wireless providers in rural areas, for the approximately 223 NXX codes remaining in the 907 NPA, the state's sole NPA.[40] Although a majority of the wireline carriers in Alaska are not LNP-capable, the Alaska Commission indicates that many of the state's providers do have the LRN architecture necessary for pooling or have indicated an ability to participate in pooling.[41] In addition, the Alaska Commission indicates that even though providers serving small rural exchanges have the necessary architecture, its primary concern is for areas in which competition is significant among providers and pooling could contribute significantly to extending the life of the 907 NPA.[42] The 907 NPA in Alaska is expected to exhaust in the third quarter of 2012. [43]

12. We find that it is most efficient and in the public interest to permit state petitioners to implement mandatory pooling at this time for NPAs that are projected to exhaust within the next five years.[44] Denial of the petitions with respect to these specified NPAs would be an inefficient use of resources since the state commissions would have to refile the petitions in the near future when the NPAs in question will be in jeopardy. We do not, however, find it necessary at this time to grant delegated authority to implement mandatory pooling for the remaining NPAs[45] since those NPAs are currently not in jeopardy and are not projected to exhaust for the next six to seventeen years. As several petitioners and commenters observe, allowing states to mandate pooling outside of the top 100 MSAs will delay the need

[34] *Id.*

[35] Pennsylvania Petition at 9. NPA Relief planning precedes the introduction of new geographic area codes and is initiated by the NANPA at least 36 months before the anticipated exhaust of an NPA. The relief planning process is described in detail in the NPA Code Relief Planning and Notification Guidelines (ATIS-0300061).

[36] Pennsylvania Petition at 7.

[37] *Id.* at 7, 9.

[38] *Id.* at 9.

[39] Alaska Petition at 3.

[40] *Id.* at 3.

[41] *Id.* at 2-3.

[42] *Id*. at 4.

[43] *Id.* at 2.

[44] Accordingly, we grant delegated authority for mandatory pooling in: the 765 and 812 NPAs in Indiana; the 662 NPA in Mississippi; the 215/267, 570, 610/484, 717, and 814 NPAs in Pennsylvania; and the 907 NPA in Alaska.

[45] The Pennsylvania PUC also requests delegated authority for mandatory pooling in the 412/878/724 NPAs.

for area code relief by using numbering resources more efficiently.[46] Demand for numbering resources in these states is increasing in rural rate centers, where number pooling is not mandatory, due to additional wireless and competitive carriers entering those areas.[47] Several petitioners have demonstrated that many carriers are not participating in optional pooling and, instead, continue to request full NXX codes in these NPAs.[48] Thus, we find these are special circumstances that justify delegation of authority to these states to implement mandatory pooling.

13. *LNP Exemption for Rural Carriers*. The Commission continues to be mindful of the concerns regarding costs to rural and small carriers associated with implementation of pooling and guided by the principle, expressed in our pooling precedent, that pooling has less impact on numbering resource exhaust where there is no competition.[49] For these reasons, the Commission has exempted from pooling rural telephone companies, as defined in the Communications Act of 1934, as amended,[50] and Tier III CMRS providers, as defined in the *E911 Stay Order*,[51] that have not yet received a specific request for the provision of LNP from another carrier, and carriers that are the only service provider receiving numbering resources in a given rate center.[52] We believe these exemptions continue to be appropriate in the expansion of pooling. We therefore require that petitioners, in exercising the pooling authority delegated in this Order, implement this delegation consistent with the federal exemption from the *NRO Fourth Report and Order* for rural telephone companies. Accordingly, we expect that rural carriers that are not LNP-capable will not be required to implement pooling solely as a result of the delegation of authority set forth in this Order.

IV. CONCLUSION

14. Petitioners have demonstrated that pooling has the potential to be most beneficial in NPAs forecasted to exhaust within the next five years. Given that the NPAs at issue in this order are expected to experience an increase in demand for numbering resources and have low utilization rates, it is most efficient and in the public interest to permit the state petitioners to implement mandatory pooling in those NPAs at this time. The petitioners observe, and we agree, that mandatory pooling would extend the life of these NPAs by putting to use the resources that otherwise would be stranded.[53] On the other hand, denying the petitions for NPAs forecasted to exhaust within the next five years would allow carriers to continue to request 10,000 blocks of numbers when fewer numbers may be needed to serve their customers, further hastening the exhaust of these NPAs. We find that this is a special circumstance that warrants our delegation of authority to these states to implement mandatory thousands-block number pooling even though the petitioners did not meet all of the Commission's criteria for such delegation.

15. Therefore, for the reasons stated above, we determine that the petitioners have demonstrated the special circumstances necessary to justify delegation of authority to require pooling for

[46] *See* Indiana Petition at 5; Mississippi Petition at 6; Alaska Petition at 5-6; Nebraska PSC Comments at 2-3; GCI Comments at 2.

[47] Pennsylvania Petition at 7; Mississippi Petition at 3; Alaska Petition at 3.

[48] *See* Pennsylvania Petition at 6-7; Mississippi Petition at 3.

[49] *See NRO Fourth Report and Order*, 18 FCC Rcd at 12476, paras. 18-19.

[50] 47 U.S.C. § 153(37).

[51] *Revision of the Commission's Rules to Ensure Compatibility with the Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Order to Stay, 17 FCC Rcd 14841 (2001) (*E911 Stay Order*).

[52] *See NRO Fourth Report and Order* at 12478-79, para. 18.

[53] Indiana Petition at 6; Mississippi Petition at 4; Alaska Petition at 4.

NPAs forecasted to exhaust within the next five years, and we hereby grant: the Indiana URC authority to implement mandatory pooling in the 765 and 812 NPAs; the Mississippi PUC authority to implement mandatory pooling in the 662 NPA; the Pennsylvania PUC authority to implement mandatory pooling in the 215/267, 570, 610/484, 717, and 814 NPAs; and the Alaska Commission authority to implement mandatory pooling in the 907 NPA.

V. ORDERING CLAUSES

16. ACCORDINGLY, pursuant to the authority contained in sections 1, 4(i), and 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251, and sections 0.91, 0.291 and 52.9(b) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 52.9(b), IT IS ORDERED that the following petitions ARE GRANTED to the extent discussed herein: Petition for Delegated Authority by the Indiana Utility Regulatory Commission; Mississippi Public Service Commission's Petition for Delegated Authority to Implement Number Conservation Measures; Pennsylvania Public Utility Commission's Petition for Delegated Authority to Implement Number Conservation Measures; and Petition of the Regulatory Commission of Alaska for Delegated Authority to Implement Number Conservation Measures.

FEDERAL COMMUNICATIONS COMMISSION

Sharon E. Gillett
Chief
Wireline Competition Bureau