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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In The Matter of Telephone Number Conservation)	
Measures for (801) Area Code Relief)	DOCKET NO. 99-999-04
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)	
In The Matter of the Request of North American)	
Numbering Plan Administrator for a New Area)	DOCKET NO. 99-999-05
Code within the (801) Area Code)	
)	PETITION FOR
)	RECONSIDERATION

I. INTRODUCTION

AT&T Communications of the Mountain States, Inc. and TCG Utah (collectively “AT&T”) respectfully request that the Public Service Commission of Utah (“Commission”) reconsider its Order, issued on November 2, 2000, regarding implementation of a variety of number conservation measures aimed at extending the life of the 801 Area Code. Specifically, AT&T requests that the Commission reconsider the requirement that a specific utilization factor must be met before carriers can request additional growth codes. Furthermore, although the Commission’s goal of extending the life of the 801 area code is laudable, it should be mindful that the Federal Communications Commission (“FCC”) has ordered that number conservation measures are not a substitute for timely area code relief.

II. ARGUMENTS

A. The Commission Has Not Been Granted Authority From The FCC To Impose A Utilization Factor

In its July 20, 2000 Order, the FCC addressed a variety of requests for delegation of additional numbering authority from fifteen states.¹ Although the Commission requested² and the FCC granted the Commission the authority to implement many number conservation measures in Utah, the Commission did not make a request that addressed the implementation of a utilization factor. Furthermore, although other states did include such a request in their petitions to the FCC, the FCC refused to rule on that aspect of those state petitions, instead stating that these specific numbering resource optimization measures had already been addressed in its *Numbering Resource Optimization Order*.³

In its NRO Order, the FCC adopted a nationwide utilization threshold for non-pooling carriers beginning January 1, 2001.⁴ The FCC tentatively concluded that the threshold should be initially set at 50%, increasing annually by 10% until it reaches 80%.⁵ This nationwide threshold is subject to change by the FCC after it has reviewed the comments it receives on the appropriate threshold. Furthermore, the FCC specifically declined at this time to impose a utilization threshold on carriers that participate in pooling.⁶

¹ *In the Matter of Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Petitions for Delegated Authority to Implement Number Conservation Measures of Arizona, Colorado, Georgia, Indiana, Iowa, Kentucky, Missouri, Nebraska, North Carolina, Oregon, Pennsylvania, Tennessee, Utah, Virginia, Washington*, Order, CC Docket Nos. 99-00 and 96-98, DA 00-1616, Released July 20, 2000, ¶ 5.

² *Petition of the Utah Public Service Commission for Accelerated Grant of Authority to Implement Number Conservation Measures*, CC Docket No. 96-98, NSD File No. L-99-89, filed October 25, 1999.

³ *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200, FCC 00-104, Report and Order and Further Notice of Proposed Rule Making, Released March 31, 2000.

⁴ *Id.*, ¶ 115.

⁵ *Id.*, ¶ 248.

⁶ *Id.*, ¶ 142.

B. A 90% Utilization Factor Is Impractical And Thwarts Competition

The question of authority notwithstanding, the 90% utilization factor ordered by the Commission is both impractical and a barrier to competition. The process of obtaining and implementing an area code takes a minimum of 66 days. If carriers have to wait until they have reached 90% utilization before they can start the code acquisition process, the risk is high that they may not have numbers available for customer assignment when needed. Furthermore, since the codes in the 801 area code are currently allocated under jeopardy procedures, there is no guarantee that a carrier will be granted a code even when the carrier's utilization is equal to or exceeds the 90% threshold.⁷

Competitive Local Exchange Carriers ("CLECs") and other new market entrants, such as wireless companies, are more likely to be negatively impacted by this impractical requirement than Incumbent Local Exchange Carriers ("ILECs") due to their high growth nature. Customers that wish to change their service from an ILEC to a CLEC may be unable to do so if the desired CLEC does not have enough numbers to fill the customers' needs. Also, new product and new service area introductions cause demand fluctuations that could not be accommodated by the punitive 90% utilization threshold. Additionally, the impact of the Winter Olympics in February 2002 on number demand is a large unknown. Vendors and suppliers will require numbers in

⁷ The jeopardy allocation was reduced in a November 1, 2000, teleconference arranged by NANPA at the request of two carriers. The meeting was called with only a few days notice, in violation of NANPA's Central Office Code Transition Task Force's "Procedures for Modifications to Industry Agreements." That procedure required NANPA to notify all parties to the previous consensus agreement at least two weeks in advance that a special conference call had been scheduled. Due to the inadequate notice, AT&T was unable to be properly represented in this meeting and believes that other carriers were similarly unaware of the meeting or unable to attend due to the short notice. Regardless, this new and untested reduction in the codes available for jeopardy allocation (from 9 to 6, with the elimination of rollover codes into the next month) is yet another reason that AT&T believes the 90% utilization threshold is unreasonable.

advance of the events. Again, carriers should not be put in a position to have to turn away business due to an inability to provide the needed numbers.

C. Number Conservation Measures Are Not A Substitute For Timely Area Code Relief

The FCC has consistently stated that state commissions must not use number conservation measures as a substitute for timely area code relief. In its Order, this Commission has pushed the dates for permissive and mandatory dialing for the new 385 NPA from December 31, 2000 and June 30, 2001 respectively, to March 30, 2002 and September 30, 2002.

The Commission is optimistic that the implementation of numbering conservation measures, especially number pooling, will prolong the life of the 801 area code. However, the FCC has held that the Commission cannot prolong the inevitable area code relief at the expense of Utah telecommunications carriers. Even after incorporating the reduced jeopardy allocation, NANPA has projected that the 801 area code will exhaust in January or February of 2002 -- before the Commission's new permissive dialing date. AT&T urges the Commission to monitor the impact of the reduced jeopardy allocation and the implementation of number pooling to ensure that Utah's telecommunications carriers have access to numbers to permit consumers to obtain services from their chosen carriers in a timely fashion.

III. CONCLUSION

AT&T respectfully requests that the Commission reconsider the imposition of a utilization threshold contained in its November 2, 2000 Order. Requiring such a factor exceeds the scope of the Commission's authority. Utilization factors will soon be established nationally for non-pooling carriers by the FCC. However, the FCC has declared that it will not require that

pooling carriers meet a utilization threshold at this time. Beyond the question of this Commission's authority, the 90% utilization threshold ordered by the Commission would harm telecommunications carriers by running the risk of inventories that are insufficient to meet consumer demand. This violates the FCC's order, which prohibits timely area code relief at the expense of competition. Finally, the Commission should closely monitor the availability of numbers and implement the new 385 NPA sooner than March 30, 2002, if justified by demand.

Respectfully submitted this 22nd day of November 2000.

By: _____

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