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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF TELEPHONE
NUMBER CONSERVATION MEASURES
FOR (801) AREA CODE RELIEF

IN THE MATTER OF THE REQUEST OF
NORTH AMERICAN NUMBERING
PLAN ADMINISTRATOR FOR A NEW
AREA CODE WITHIN THE (801) AREA
CODE.

DOCKET NO. 99-999-05

DOCKET NO. 99-999-04

**RESPONSE OF THE DIVISION OF PUBLIC UTILITIES TO PETITION FOR
RECONSIDERATION**

The following is a Response by the Division of Public Utilities (“DPU”) to Petition for Reconsideration:

I. INTRODUCTION

On May 16, 2000, AT&T Communications of the Mountain States, Inc., Sprint Spectrum L.P., U S WEST Wireless L.L.C., Verizon Wireless, and VoiceStream (“Joint Petitioners”) requested that the Utah Public Service Commission (“Commission”) reconsider its Report and Order, issued on April 26, 2000, regarding the establishment of a new area code within the 801 Area Code. The Joint Petitioners specifically requested that wireless carriers be permitted the option of retaining all their current central office prefixes (NNXs) in the 801 area code. The Joint Petitioners referred to this practice as “wireless grandfathering,” stating that the practice was based upon a technological difference between wireline and wireless telephones.¹ The Joint Petitioners state that the wireless telephones will have to be individually reprogrammed with the new area code, and that this process will be disruptive, inconvenient, and costly.² The Utah Division of Public Utilities (“Division”) respectfully requests that all petitions for “wireless grandfathering” be denied.

II. DISCUSSION

The Federal Communication Commission's (FCC's) Report and Further Notice of Proposed Rule Making released March 31, 2000, in Docket 99-200, In the Matter of Number Resource Optimization,³ wireless carriers are not required to participate in 1000 block number

¹Joint Petitioners, Petition for Reconsideration, Dockets No. 99-999-04 and 99-999-05, filed May 16, 2000, p.2.

²Ibid.

³Report and Order and Further Notice of proposed Rule Making, CC Docket No. 99-200, In the Response of the Division of Public Utilities to Petition for Reconsideration
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pooling until November 24, 2002, the dead line for wireless carriers to become Line Number Portability (LNP) capable.⁴ If a wireless carrier becomes LNP capable prior to that date they will be required to participate in the 1000 block number pooling immediately.⁵ However, if the wireless carrier is unable to participate in LNP, and thus is technologically unable to participate in 1000 block number pooling, the FCC has mandated that wireless carriers such as these, participate in alternative forms of number optimization such as number utilization standards.⁶

By incorporating number utilization standards into number conservation measures, the FCC hopes to extend the exhaust date of the entire North American Numbering Plan. Number utilization standards involve the auditing of actual usage of prefixes that are already issued to all carriers within an area code. If it can be shown that a particular prefix is not being used, or is little used, the Number Administrator would be authorized to pull the prefix (in its 10,000 number block form) back into the data base for redistribution to a carrier who is in actual need of the prefix. After Utah is granted 1000 block number pooling, this recovered 10,000 block number prefix would be divided into the 1000 number blocks and redistributed as necessary. This recovering and redistribution effort of under-used prefixes is more in tune with the Division's goal of conserving numbers and extending the life of the 801 area code.

To date, the FCC has not ruled on an exact percentage of usage that will be required in an

Matter of Number Resource Optimization, Released March 31, 2000, ¶ 136-138.

⁴Ibid.

⁵Id. ¶ 140.

⁶Id. ¶ 137, and ¶ 115.

issued prefix before the entire 10,000 block of numbers can be recovered from a carrier. A carrier will be required to show that a certain percentage of the numbers of which they have been given are in actual use. Parties commenting to the FCC concerning the utilization percentage requirement have recommended a 60-90% utilization factor.⁷ The FCC will shortly rule on the exact percentage of utilization factor requirement, but they have already stated that the nationwide utilization threshold for non-pooling carriers will go into effect on January 1, 2001.⁸

This means that on January 1, 2001, non-pooling carriers such as wireless carriers will have to show a certain utilization factor in all prefixes they have been issued. If this utilization factor is not met, the Number Administrator will have the authority to recover unused prefixes in their entirety. Those prefixes that are partially used, but below the set threshold will be handled differently. Those numbers assigned within an under-used 10,000 block will be migrated to another prefix until the under-used prefix is completely cleared of any usage, and then will be recovered in its entire 10,000 number block for redistribution, in the 1,000 number block conservation mode.

If the Utah Public Service Commission grants “wireless grandfathering” the wireless carriers will be exempt from the utilization threshold and prefix recovery system for non-pooling carriers that will go into effect on January 1, 2001. Regardless of under-usage of a prefix by a wireless carrier, if “wireless grandfathering” is granted in this matter, the Number

⁷Id. at ¶ 115.

⁸Id.

Administrator would be unable to practice number conservation by recovering existing issued unused or under-used prefixes from the wireless carriers. This would fly in the face of number conservation efforts and would significantly decrease the life of the 801 area code.

“Wireless grandfathering” allows the wireless carriers to make the decision to either continue to use its assigned NNXs within the existing area code or to ask for new NNXs within the new area code. Per Jack Ott of US WEST, those states that have granted “wireless grandfathering” are now seeing a trend whereby the wireless carrier customers within the new area code boundaries are asking for the new area code for their existing wireless service numbers. The wireless carriers then request duplicate numbers for their customers with the new area code, thereby exhausting the new area code in advance of forecast, as well as tying up the duplicate number in the old area code. This trend was not foreseen by wireless carriers in those states, but per Jack Ott of US WEST, it is a frequent happening today as wireless carriers attempt to satisfy their customers.⁹

Within the Telecommunications Industry (“Industry”), the granting of the term “wireless grandfathering” is often interpreted to mean that the wireless carriers will not only be allowed to keep their existing NNXs within the existing area code, but also will not be required to take new blocks of numbers in the new area code regardless of where the customer resides or works, and regardless of where the equipment of the wireless carrier is located.¹⁰ Instead the wireless carrier

⁹Statement of Jack Ott, US West on Number Conservation Measures, May 24, 2000.

¹⁰CellularOne Public Announcements, Important Area Code Information for Our South Jersey Response of the Division of Public Utilities to Petition for Reconsideration
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would continue to assign from the existing area code, further exacerbating the exhaust date of the original area code.

Joint Petitioners state that they will incur costs for augmenting service staffing and support, that they will be paying overtime, hiring third-party vendors, adding physical facilities and purchasing equipment.¹¹ They state that reprogramming costs and educating their customers will cause further expenses to be sustained by the wireless carriers.¹² The Joint Petitioners state that their customers will incur significant costs and inconvenience in changing of stationery, signage, and other personal or advertising material.¹³

The Division is cognizant of the fact that in any type of number relief plan, be it a split or an overlay, there will be inconvenience and expense connected with the establishment of a new area code. These expenses and inconveniences are no different from those that have been incurred by other wireline and wireless carriers and customers in other states that have preceded Utah in relief plans. The Joint Petitioners put forth that their wireless customers are significantly different from other customer groups in that wireless numbers usually are not published.¹⁴ This may be true, but the Division finds all of these statements along with the Joint Petitioners' request for special treatment unconvincing. All carriers, both wireline and wireless will be

Customers, Delaware Valley Cellular Corporation d/b/a Cellular One, 1999.

(www.philadelphia.cellone.com/cellcomm/news/pa990607.htm) last visited May 23, 2000, 2:48 PM.

¹¹Joint Petitioners, Petition for Reconsideration, Docket Numbers No. 99-999-04 and 99-999-05, filed May 16, 2000, p.2.

¹²Id. at 2-3.

¹³Id. at 3.

incurring costs and inconveniences in changing over to the new area code. All will be required to educate their customers, reprogram switches, and provide new translations. All of these things impact all carriers and customers in the affected area. All of these factors are common issues when an area code is in jeopardy and near exhaust.¹⁵ None of the costs, required programming, or required customer education common to relief planning can be considered new issues (neither can they be avoided) when all of these concerns have been addressed and dealt with in other states without allowing “wireless grandfathering.”¹⁶

During the time span of October, 1999, through February, 2000, the Division performed a 801 Area Code Relief audit, the results of which were filed with the Commission on March 7, 2000, whereby both wireline and wireless carriers submitted data indicating usage of the NNXs of which they were in possession.¹⁷ The summation of all data responses indicate that the total utilization of the landline numbers is 66.26%, and the total utilization of wireless is a lesser percentage at 51.72%.¹⁸

The Division also believes that these utilization percentages are overstated, because of

¹⁴Id.

¹⁵Neustar NANPA Presentation, Statements of Joe Cocke, Neustar NANPA Area Code Relief, at Town Meetings held in Provo, Bountiful, Ogden, and Salt Lake City, held March 14, 15, 16, and 22, 2000.

¹⁶Neustar NANPA, Bruce Armstrong Conversation, May 24, 2000. Bruce Armstrong stated that when regulators in Kansas, Washington, Oregon, and Arizona addressed the petitions of wireless carriers concerning the issue of “wireless grandfathering,” the petitions were denied as being detrimental to number conservation measures.

¹⁷DPU Memorandum, DPU Audit Results for 801 Area Code Relief, submitted March 7, 2000, p.2.

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the high volume of phone numbers in the “Reserved” and “Assigned, but Not Working” categories. The Division estimates that actual usage is closer to 60% for landline numbers, and 50% for wireless numbers.¹⁹ According to Industry Standards,²⁰ a block of numbers that is used at a rate of 10% or less may be recovered and reissued within the current rate center assigned that NXX block.²¹

The Division's audit indicates that wireless carriers now hold many NNXs that would fall into this recover and reissue status. If “wireless grandfathering” is granted whereby these wireless carriers are allowed to retain all NNXs they now possess, regardless of low usage or non-usage, wireless NNXs normally recoverable in number conservation measures will fall outside the realm of control of the Number Administrator and would not be recoverable for reissuing. The recovering and reissuing of under-used or unused NNXs is one important facet of successful number conservation measures. The Division believes that if “wireless grandfathering” is granted to the Joint Petitioners, number conservation efforts will be gutted.

III. CONCLUSION

Because the Utah Division of Public Utilities (“DPU”) believes that the granting of “wireless grandfathering” to the wireless carriers would detrimentally affect any future number conservation efforts, the DPU respectfully requests that the Joint Petitioners' request for

¹⁸Ibid.

¹⁹Ibid.

²⁰See Industry Numbering Committee, Thousand Block (NXX-X Pooling Administration Guidelines, INC 99-0127-023, §8.2.5, Jan. 10, 2000.
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“wireless grandfathering” be denied.

DATED this _____ day of May, 2000.

By

Michael Ginsberg
Assistant Attorney General

²¹Ibid.

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CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing RESPONSE OF THE DIVISION OF PUBLIC UTILITIES TO PETITION FOR RECONSIDERATION to be served upon the following persons by mailing a true and correct copy of the same, postage prepaid, to the following on the _____ day of May, 2000:

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