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

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In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	

FOURTH REPORT AND ORDER IN CC DOCKET NO. 99-200 AND CC DOCKET NO. 95-116, AND FOURTH FURTHER NOTICE OF PROPOSED RULEMAKING IN CC DOCKET NO. 99-200

Adopted: May 28, 2003 **Released: June 18, 2003**

Comment Date: 30 days after publication in the Federal Register.
Reply Comment Date: 45 days after publication in the Federal Register.

By the Commission: Commissioner Copps issuing a separate statement.

I. INTRODUCTION

1. In this order, we continue efforts to maximize the efficiency with which numbering resources in the North American Numbering Plan (NANP) are used.[1] We address the issues on which we sought comment in the *Numbering Resource Optimization Third Order on Reconsideration*.[2] Specifically, we reaffirm that carriers must deploy local number portability (LNP) in switches within the 100 largest Metropolitan Statistical Areas (MSAs) for which another carrier has made a specific request for the provision of LNP. We also delegate authority to the state commissions to require carriers operating within the largest 100 MSAs that have not received a specific request for LNP from another carrier to provide LNP, under certain circumstances and on a case-by-case basis. We also conclude that all carriers, except those specifically exempted, are required to participate in thousands-block number

[1] The NANP was established over 50 years ago by AT&T to facilitate the expansion of long distance calling. It is the basic numbering scheme for the United States, Canada, and most Caribbean countries. The NANP is based on a 10-digit dialing pattern in the format NXX-NXX-XXXX where "N" represents any digit 2-9 and "X" represents any digit 0-9. The first three digits represent the numbering plan area (NPA), commonly known as the area code. The second three digits represent the central office code, or NXX, commonly referred to as an exchange. The last four digits represent the subscriber line number.

[2] *Numbering Resource Optimization*, Third Order on Reconsideration in CC Docket No.99-200, Third Further Notice of Proposed Rulemaking in CC Docket 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket 95-116, 17 FCC Rcd 4784 (2002) (*Numbering Resource Optimization Third Order on Reconsideration*).

pooling in accordance with the national rollout schedule,[3] regardless of whether they are required to provide LNP, including covered commercial mobile radio service (CMRS) providers that are not required to deploy LNP until November 24, 2003.[4] We specifically exempt rural telephone companies and Tier III CMRS providers that have not received a request to provide LNP from the pooling requirement. We also exempt from the pooling requirement carriers that are the only service provider receiving numbering resources in a given rate center. Additionally, we seek further comment on whether these exemptions should be expanded to include carriers where there are only two service providers receiving numbering resources in the rate center.

2. Regarding MSAs, we reaffirm our finding that the 100 largest MSAs include those MSAs identified in the 1990 U.S. Census reports as well as those areas included on any subsequent U.S. Census report of the 100 largest MSAs. Although we decline to expand the list of the 100 largest MSAs to include areas in Consolidated Metropolitan Statistical Areas (CMSAs) that would not otherwise be included in the 100 largest MSAs, we delegate to state commissions the authority to determine whether to require carriers to participate in pooling in such areas.[5] These actions will further promote our competition policies, promote the efficient and effective use of finite numbering resources and increase the effectiveness of our numbering resource optimization measures.

3. We also find AT&T's petition for reconsideration of the Commission's decision to permit incumbent local exchange carriers (LECs) to recover the extraordinary costs of thousands-block number pooling through access charges to be untimely and without merit.[6]

II. BACKGROUND

4. The Commission determined in the *Number Portability First Report and Order* that LECS and certain broadband CMRS providers operating in the 100 largest MSAs must offer LNP, according to a phased deployment schedule.[7] This requirement was subsequently limited by the *Number Portability First Order on Reconsideration*, in which the Commission concluded that LECs and covered CMRS providers were required only to deploy LNP within switches for which another carrier has made a specific request for the provision of LNP.[8] We extended, until November 24, 2003, the deadline by

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

[4] *See* Verizon Wireless Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation, WT Docket No. 01-184, and Telephone Number Portability, CC Docket No. 95-116, Memorandum Opinion and Order, 17 FCC Rcd 14972 2002) (*Verizon Wireless LNP Forbearance Order*); *Cellular Telecommunications & Internet Association v. FCC*, No. 02-1264 (D.C. Cir. June 6, 2003) (Dismissed in part and denied in part CTIA's appeal of the Commission's decision in the *Verizon Wireless LNP Forbearance Order.*).

[5] CMSAs include and combine the populations of multiple MSAs, some of which would not otherwise be included as one of the 100 largest MSAs when ranked separately. *See* 2000 U.S. Census, available at http://www.census.gov/population/cen2000/phc-t3/tab03.pdf.

[6] *See* AT&T Corp. Petition for Reconsideration of Numbering Resource Optimization Third Order on Reconsideration in CC Docket No. 99-200 (filed May 6, 2002) (AT&T Petition for Reconsideration).

[7] *Telephone Number Portability*, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 9393 (1996) (*Number Portability First Report and Order*).

[8] *Telephone Number Portability*, CC Docket No. 95-116, First Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 7236, 7272 (1997) (*Number Portability First Order on Reconsideration*).

which covered CMRS providers must offer number portability.[9]

5. In the *Numbering Resource Optimization First Report and Order*, the Commission established national thousands-block number pooling as an LNP-based numbering resource optimization measure designed to help slow the pace of area code and NANP exhaust.[10] This measure involves breaking up the 10,000 numbers in an NXX into ten sequential blocks of 1,000 numbers and allocating each thousands-block to a different service provider, possibly a different switch, within the same rate center. The Commission mandated participation in national pooling by all carriers that are required to be LNP-capable, because it believed that LNP capability was required before a carrier could participate in thousands-block number pooling.[11] The Commission concluded, however, that delaying the implementation of national pooling until all carriers are required to be LNP-capable would needlessly prolong the inefficiencies resulting from the current number allocation system.[12] We, therefore, established a rollout schedule for thousands-block number pooling within the areas where LNP is most widely deployed (*i.e.*, the 100 largest MSAs).[13]

6. In the *Numbering Resource Optimization Third Report and Order*, we extended LNP and thousands-block number pooling requirements to all carriers in the 100 largest MSAs, and gave non-compliant carriers six months from the effective date of that order to deploy LNP.[14] We reached this decision, in part, in response to requests by certain state commissions that discovered that some LECs had not deployed LNP in some of the 100 largest MSAs, and thus could not participate in thousands-block number pooling trials.[15] Apparently, several state commissions and carriers believed that all carriers in the 100 largest MSAs were required to provide LNP, not only those with requests. Thus, we sought to clarify the issue. In doing so, we reversed our earlier decision on LNP deployment in the *Number Portability First Order on Reconsideration* without providing an adequate opportunity for comment on this specific issue.

7. We subsequently released the *Numbering Resource Optimization Third Order on Reconsideration,* in which we, on our own motion, reconsidered the findings regarding the LNP and thousands-block number pooling requirements for carriers in the 100 largest MSAs.[16] Specifically, we reversed the clarification that these requirements extend to all carriers within the 100 largest MSAs, regardless of whether they have received a specific request from another carrier to provide LNP. Instead, we sought comment on this issue. We also sought comment on whether all carriers in the 100 largest MSAs should be required to participate in thousands-block number pooling, regardless of whether they are required to be LNP capable. Finally, we sought comment on whether all MSAs included in CMSAs ranked within the largest 100 MSAs should be included on the Commission's list of

[9] *Verizon Wireless LNP Forbearance Order*, 17 FCC Rcd at 14981.

[10] *Numbering Resource Optimization*, First Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (2000) (*Numbering Resource Optimization First Report and Order*).

[11] *Numbering Resource Optimization Third Order on Reconsideration*, 17 FCC Rcd at 4787.

[12] *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7628.

[13] *Pooling Rollout Schedule*, 17 FCC Rcd at 7352-54.

[14] *See Numbering Resource Optimization*, Third Report and Order and Second Order on Reconsideration in CC Docket No. 99-200, 17 FCC Rcd 252, 306 (2001) (*Numbering Resource Optimization Third Report and Order*).

[15] *See* California Public Utilities Commission Further Comments to *Numbering Resource Optimization Second Report and Order* at 17.

[16] *Numbering Resource Optimization Third Order on Reconsideration*, 17 FCC Rcd at 4784.

the 100 largest MSAs.

III. FOURTH REPORT AND ORDER

8. *Number Portability.* We reaffirm the Commission's decision in the *Number Portability First Order on Reconsideration* that all local exchange carriers and covered CMRS carriers in the 100 largest MSAs are required to provide LNP upon receipt of a specific request for the provision of LNP by another carrier.[17] We disagree with commenters suggesting that it is necessary to expand LNP to all carriers in the 100 largest MSAs to reap the benefits of increased competition and numbering resource optimization, regardless of whether another carrier has made a specific request.[18]

9. We reemphasize our view that LNP is still an important tool for enhancing competition, promoting numbering resource optimization, and giving consumers greater choices. We believe, however, that the current requirements are sufficient to meet these important statutory goals. We find these requirements to be reasonable and efficient because they allow carriers to target their resources where the greatest need for number portability exists.[19] They also limit expenditures in areas where there are relatively few competing service providers. For example, TDS asserts that a requirement to deploy LNP in the 100 largest MSAs without a specific request would require it to postpone planned upgrades valued at about $16 million, including high priority projects.[20] Similarly, Sprint indicates that in the first quarter of 2003, it intends to make improvements to its network to accommodate its Circuit to Packet conversion project that has LNP capability as a byproduct.[21] Sprint explains that if it is required to deploy LNP without a request, it would be forced to undertake costly network replacements for four switches within one of the 100 largest MSAs.[22] We agree, therefore, with commenters that maintaining the current LNP requirement appropriately balances the policies and rationale supporting LNP without requiring expenditure of significant resources to deploy LNP in areas where competitors have not requested portability.[23] Furthermore, maintaining the current requirement will not impose new burdens on small carriers operating in the 100 largest MSAs.[24]

10. If it is true, as WorldCom anticipates, that there will be new demand for LNP created by the implementation of LNP by covered CMRS providers, even where wireline competitive LECs have not yet entered the market, potential competitors can make the appropriate requests for LNP in areas they intend to serve.[25] Carriers, including covered CMRS providers by November 24, 2003, are required to

[17] *Number Portability First Order on Reconsideration,* 12 FCC Rcd at 7272-73. We note that carriers operating outside of the 100 largest MSAs must also provide LNP within six months of receiving a request from another carrier. *See* 47 C.F.R. §§ 52.23(c). *See also Number Portability First Order on Reconsideration,* 12 FCC Rcd at 7314.

[18] California Commission Comments at 4-8; California Commission Reply Comments at 4-13; Iowa Utilities Board Comments at 2-4; Michigan Commission Comments at 3-4; NASUCA Comments at 2-6; NYSDPS Comments at 1-2; Ohio Commission Comments at 2-6; Texas Commission Reply Comments at 1-2; WorldCom Comments at 1-3.

[19] *Number Portability First Order on Reconsideration,* 12 FCC Rcd at 7272. *See also* AT&T Wireless Comments at 4.

[20] TDS Comments at 4.

[21] Sprint Reply Comments at 4.

[22] *Id.* at 5.

[23] *See* CenturyTel Reply Comments at 3; Sprint Reply Comments at 2; TDS Comments at 2-3.

[24] Number Portability First Order on Reconsideration, 12 FCC Rcd at 7272.

[25] WorldCom Comments at 2.

make number portability available within specified time-frames after a specific request by another telecommunications carriers in the areas in which the requesting carrier is operating or plans to operate.[26] Requesting telecommunications carriers must specifically request portability, identify the discrete geographic area covered by the request, and provide a tentative date by which the carrier expects to utilize number portability to port prospective customers.[27]

11. The implementation of pooling was one of the primary considerations for extending LNP to all carriers operating in the 100 largest MSAs. Initially, the Commission linked the pooling requirement to LNP because it was widely accepted that carriers without LNP capability could not participate in pooling.[28] We have since found, and the industry has confirmed, that full LNP capability is not necessary for participation in pooling.[29] Rather, the underlying architecture, Location Routing Number (LRN), is necessary for such participation.[30] Upon reexamination, we remain convinced that it is reasonable to require LNP only in areas where competition dictates its demand, especially since we now know that pooling can be implemented without full LNP capability. Thus, we agree with AT&T Wireless that requiring LNP capability for all carriers in the 100 largest MSAs only when there has been a specific request will not have any significant negative effects on pooling.[31]

12. We also delegate authority to the state commissions to require carriers to provide LNP under certain circumstances and on a case-by-case basis. Thus, states may require carriers operating within the largest 100 MSAs to provide LNP, even if such carriers have not received a specific request for LNP from another carrier, if doing so would be in the public interest because there is evidence of meaningful consumer demand for LNP. As discussed above, although we find that it is not necessary to expand the LNP requirement to all carriers in the 100 largest MSAs regardless of whether they have received a request for LNP, we agree with the California Commission that state commissions should have the discretion, under the circumstances discussed in the next paragraph, to extend the LNP requirements to carriers in the 100 largest MSAs that would not otherwise be required to implement LNP.[32] This delegation will allow the state commissions the flexibility to accommodate specific demand for LNP by

[26] Requests for covered CMRS providers to offer LNP by November 24, 2003 were required to be made by February 24, 2003. *See* 47 C.F.R. §§ 52.23, 52.31.

[27] *Id.*

[28] See, e.g., Cellular Telecommunications Industry Association's Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations, WT Docket No. 98-229, and Telephone Number Portability, CC Docket No. 95-116, Memorandum Opinion and Order, 14 FCC Rcd 3092, 3096-97 (1999) (*CTIA Forbearance Order*).

[29] *See Verizon Wireless LNP Forbearance Order*, 17 FCC Rcd at 14983; Verizon Wireless Petition Pursuant to 47 U.S.C. § 160 for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation, WT Docket No. 01-184 (filed July 26, 2001) (Verizon Wireless LNP Forbearance Petition); AT&T Wireless Comments to Verizon Wireless LNP Forbearance Petition at 3-4; Cingular Wireless Comments to Verizon Wireless LNP Forbearance Petition at 15-16; Sprint Comments to Verizon Wireless LNP Forbearance Petition at 7-8; VoiceStream and US Cellular Comments to Verizon Wireless LNP Forbearance Petition at 10.

[30] LRN architecture breaks the association between the central office code, or NXX, and a particular service provider. A unique 10-digit number, the LRN, serves as a network address and is assigned to each central office to identify each switch or point of interconnection in the network. To facilitate LNP and pooling, databases and appropriate records are established and maintained to make the proper network and carrier association for call routing purposes.

[31] *See* AT&T Wireless Comments at 5.

[32] *See* California Commission Comments at 16.

consumers in a manner that promotes our numbering resource optimization goals, competition, and the public interest.

13. State commissions exercising this delegated authority must find that LNP would serve the public interest because there is actual, meaningful consumer demand, as evidenced by consumer requests, for LNP in specified areas within the largest 100 MSAs.[33] State commissions also must find that consumer demand and numbering resource optimization considerations justify the cost of providing LNP in the specified areas, including impacts on small and rural telephone companies. Because there is little incentive for states to require LNP in areas where there is little or no consumer demand, and requiring LNP in such cases would be costly for the carriers and, in turn, costly, for the consumers, we are confident that the state commissions will carefully consider the consumer demand for LNP when utilizing this delegated authority.

14. *Thousands-Block Number Pooling*. We adopt our tentative conclusion that all carriers, including covered CMRS providers, should be required to participate in thousands-block number pooling, regardless of whether they are required to provide number portability, in accordance with the national rollout schedule.[34] Because, as we noted earlier, carriers can participate in pooling once they deploy the LRN architecture,[35] thousands-block number pooling need not be linked to a carrier's ability to provide number portability. All carriers operating within the 100 largest MSAs, except those specifically exempted, were required to participate in pooling in areas where pooling has been or will be implemented[36] in accordance with the national rollout schedule. In addition, we direct the NANPA to cease assignment of NXX codes to carriers after they are required to participate in pooling. Carriers required to participate in pooling must request and receive numbering resources from the national Pooling Administrator (PA).

15. We agree with commenters suggesting that thousands-block number pooling should be as expansive as possible in order to promote efficient and effective numbering resource optimization.[37]

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[33] Carriers required to implement LNP pursuant to a state commission order would be required to implement LNP in accordance with the schedules established in our rules. *See* 47 C.F.R. §§ 52.23, 52.31.

[34] *See Numbering Resource Optimization Third Order on Reconsideration*, 17 FCC Rcd at 4787. Covered CMRS providers were required to participate in national pooling by November 24, 2002, pursuant to the national rollout schedule. CMRS carriers were required to support nationwide roaming for customers with pooled numbers by November 24, 2002, regardless of whether they are receiving numbering resources from thousands-block number pools by that date. The transition plan and milestones for carriers can be found on the National Pooling Administrator's web site at www.nationalpooling.com. We also note that carriers choosing not to implement the industry selected MIN/MDN separation solution for pooling are not excused from their obligation to deliver valid call back numbers to Public Safety Answering Points, in accordance with our enhanced 911 rules. *See* 47 C.F.R. § 29.18(d).

[35] *See* Verizon Wireless LNP Forbearance Petition at 3-4, 9-12; AT&T Wireless Comments to Verizon Wireless LNP Forbearance Petition at 3-4; Cingular Wireless Comments to Verizon Wireless LNP Forbearance Petition at 15-16; Sprint Comments to Verizon Wireless LNP Forbearance Petition at 7-8; VoiceStream and US Cellular Comments to Verizon Wireless LNP Forbearance Petition at 10.

[36] Covered CMRS carriers were also required to begin participating in thousands-block number pooling in areas where pooling has been or will be established. *See Verizon Wireless LNP Forbearance Order*, 17 FCC Rcd at 14986.

[37] California Commission Comments at 4-8; Iowa Utilities Board Comments at 4-5; NASUCA Comments at 2-6; NYSPDS Comments at 1-2; Ohio Commission Comments at 7-9 (the Ohio Commission believes that thousands-block number pooling is better for number conservation than LNP at this time because of limited competition); Texas Commission Reply Comments at 2; VoiceStream Comments at 2-4; WorldCom Comments at 1-3.

Pooling is essential to extending the life of the NANP by making the assignment and use of central office codes more efficient.[38] As previously found, delaying the implementation of national pooling until all carriers are required to be LNP-capable would needlessly prolong the inefficiencies resulting from the NXX number allocation system.[39] We continue to believe that thousands-block number pooling will provide the greatest benefits when participation is maximized.[40] In addition, we continue to believe that the industry and consumers are best served by national numbering resource optimization standards implemented consistently and in a competitively neutral manner across the nation.[41] Expanding pooling to all carriers in the 100 largest MSAs furthers our numbering resource optimization goals by allowing telephone numbers to be assigned to carriers in smaller blocks in areas where the demand for numbering resources has proven to be the greatest.

16. Generally, we believe that the inclusion of rural and other small carriers operating within the largest 100 MSAs in the pooling requirement is very important to furthering our goals of slowing the pace of area code and NANP exhaust. Because most, if not all, of these carriers have a small customer base, thousands-block number pooling allows these carriers to obtain numbering resources in quantities that better reflect their actual needs; *i.e.*, 1,000 blocks rather than 10,000 blocks. This results in fewer stranded numbers and thus better utilization rates. Nevertheless, we recognize that the costs associated with implementing thousands-block number pooling without having first implemented LNP can be particularly burdensome to rural and small carriers.[42] Several commenters therefore suggest it is necessary to create an exemption from pooling for these carriers.[43]

17. Several commenters state that many rural carriers do not operate in competitive markets.[44] Iowa Telecom states, for example, that it has not received any requests for LNP and it is currently not subject to numbering resource shortages.[45] We know that pooling is most effective in areas where competition exists, because it allows multiple service providers to more effectively share limited resources. Where there is less competition, and therefore fewer carriers requiring numbering resources, pooling may have less impact on numbering resource exhaust. Because many rural and other small carriers operate in areas where they are the only or one of a few service providers, they are less likely to require multiple NXX codes or blocks of numbers in a manner that will drive premature area code exhaust.

18. We are also mindful of the concerns raised by some commenters regarding the costs to rural and small carriers associated with the implementation of thousands-block number pooling.[46] Although

[38] *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7625.

[39] *Id.* at 7628.

[40] *Id.* at 7624. Most wireline carriers in the 100 largest MSAs are participating in pooling, and some carriers are voluntarily participating in pooling in rate centers outside of the 100 largest MSAs.

[41] *Id.* at 7625.

[42] *See* CTIA Comments at 4; Independent Companies Comments at 4; Iowa Telecom Comments at 7-8, 10-14; Iowa Telecom Reply Comments at 3-5; NTCA Comments at 4-5; TDS Comments at 5-6; USTA Comments at 5.

[43] *See* CTIA Comments at 3-4; Iowa Telecom Comments at 3-4, 7-8, 10-14; Iowa Telecom Reply Comments at 2-12; NECA Comments at 6; Rural Cellular Comments at 4-5; TDS Comments at 5-6; USTA Comments at 4-6.

[44] *See* Beacon Comments at 2-3; CTIA Comments at 4; Independent Companies Comments at 4; Rural Cellular Comments at 5-6; USTA Comments at 4-5.

[45] Iowa Telecom Comments at 10-14.

[46] *See* Iowa Telecom Comments at 10-15; Iowa Telecom Reply Comments at 2-12.

the specific costs of implementing pooling for rural carriers are unknown at this time, we know that these costs may ultimately result in increased customer costs.[47] We therefore find that a limited exemption for these carriers is warranted.[48] We believe that the added benefits to be gained by requiring certain carriers that have not received a request for LNP to participate in pooling do not outweigh the potential burden, specifically the cost associated with pooling, on such carriers. We therefore exempt from the pooling requirement rural telephone companies, as defined in the Communications Act of 1934, as amended (the Act), that have not received a request to provide LNP.[49] We also exempt Tier III wireless carriers, as defined in the *E911 Stay Order*,[50] that have not received a request to deploy LNP.[51] Once an exempted rural telephone company or Tier III wireless carrier has received a request to provide LNP, however, that carrier must participate in pooling. State commissions may petition the Commission for authority to require these exempted carriers to implement pooling in areas within the largest 100 MSAs if they can demonstrate that participation in pooling will further our numbering resource optimization goals.[52]

19. In addition, because we find that pooling has less impact on numbering resource exhaust

[47] In the *Numbering Resource Optimization Third Report and Order*, the Commission determined that rate of return incumbent LECs may recover their carrier-specific number pooling costs through interstate access charges in the common line category. *See Numbering Resource Optimization Third Report and Order*, 17 FCC Rcd at 268. If recovery of these costs would result in end user charges that exceed the caps established for rate of return carriers, these carriers may seek recovery of the unrecovered portion of these costs through the Universal Service interstate common line support fund (USF). *See* 47 C.F.R. §§ 54.901, 69.104 (n), (o) adopted in *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Second Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 19613 (2001). The USF is supported by assessments on the interstate revenues of telecommunications carriers, and carriers typically recover these costs from consumers, either through a line item fee or through interstate rates.

[48] We note that this limited exemption, however, does not obviate the pooling requirements established under prior orders. *See Numbering Resource Optimization Third Report and Order*, 17 FCC Rcd at 258-63; *Numbering Resource Optimization*, Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200, 16 FCC Rcd 306, 328-30 (2000) (*Numbering Resource Optimization Second Report and Order*); *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7621-36.

[49] 47 U.S.C. § 153(37). Similarly, the Commission lessened the reporting requirement for rural telephone companies by allowing them to report their historical utilization data at the NXX level rather than at the thousand-block level in areas where LNP is not available. *See Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7594-95.

[50] In the *E911Stay Order*, the Commission classified CMRS carriers with 500,000 subscribers or fewer as of the end of 2001 as Tier III wireless carriers. *See 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 (2002) (*E911 Stay Order*). The Small Business Administration (SBA) has approved the Tier III wireless classification as a small business size standard. *See* Letter from Hector V. Barreto, Administrator, SBA to Blaise Scinto, Acting Chief, Policy Division, Wireless Telecommunications Bureau, FCC (dated Jan. 21, 2003).

[51] According to statistics compiled by the Wireless Telecommunications Bureau using publicly available information, such as operators' news releases and filings made with the Securities and Exchange Commission, there are approximately 1300 wireless carries, of which 435 are Tier III wireless carriers. Of the 435 Tier III wireless carriers, less than ten have over 50,000 subscribers.

[52] For example, such authority may be granted to state commissions demonstrating that a particular area is experiencing a numbering resource shortage due to competition and a significant demand for numbering resources by rural telephone companies and/or Tier III wireless carriers.

where there is no competition, we decline to impose pooling costs on carriers that are not required to provide LNP operating in areas where there are no competing service providers.[53] We therefore exempt carriers operating in rate centers within the largest 100 MSAs, where they are the only service provider receiving numbering resources, from the pooling requirement in those rate centers. Once such a carrier receives a request to provide LNP, however, the carrier must then also participate in pooling in areas where it is deployed.

20. *100 Largest MSAs.* We reaffirm our finding that the 100 largest MSAs include those MSAs identified in the 1990 U.S. Census reports and all subsequent U.S. Census updates of the 100 largest MSAs.[54] We decline, however, to expand the list of the 100 largest MSAs to include areas in CMSAs that would not otherwise be included on the list of the 100 largest MSAs.[55] Nevertheless, we delegate to the state commissions the authority to determine whether pooling should be extended to areas included in CMSAs that otherwise would not be included as one of the 100 largest MSAs. In doing so, we aim to focus pooling efforts on the nation's most densely populated areas so as to slow the further proliferation of area codes.[56]

21. The Commission has focused on pooling efforts in the largest MSAs because those are the areas most likely to have competitive markets that would benefit from pooling.[57] Conversely, we have not required carriers to participate in pooling in less populous areas because the full benefits of pooling are less likely to be realized in areas without sufficient competition.[58] Several commenters point out, however, that many nearby or adjoining areas within a CMSA have similar demographics to the original MSA and believe it appropriate to include CMSAs in the MSA list regardless of whether they would otherwise be included on the list of the 100 largest MSAs.[59] We find insufficient evidence in the record to determine if these expanded areas have sufficient competition to justify extension of the MSA list, and therefore decline to determine which, if any, of these localities should be included on the MSA list. Rather, we find that the state commissions are better positioned to assess local conditions and determine whether to extend pooling to these areas. In making this determination, states should consider such factors as the number of competing service providers in the extended areas, whether the inclusion of such areas would further the Commission's competition and numbering resource optimization goals, population trends in the extended areas, and customer use patterns and volumes. Accordingly, we delegate to state commissions the authority to determine whether to extend pooling to areas within CMSAs that otherwise would not be included on the list of the largest 100 MSAs.[60] State commissions

[53] In essence, we agree with those comments stating that pooling is unnecessary where no competing carrier exists. *See* NYSTA Comments at 16-17; VoiceStream Comments at 4; WorldCom Comments at 3.

[54] In the *Numbering Resource Optimization Third Report and Order*, we clarified that the "largest 100 MSAs" include those MSAs identified in the *LNP First Report and Order* as well as those areas included on any subsequent list of the largest 100 MSAs. *See Numbering Resource Optimization Third Report and Order,* 17 FCC Rcd at 305-06.

[55] *See* Appendix B, which lists MSAs included in CMSAs on the list of the 100 largest MSAs that would not otherwise be on that list.

[56] *See* NASUCA Comments at 7.

[57] Numbering Resource Optimization Third Report and Order, 17 FCC Rcd at 4787.

[58] *Id.*

[59] *See* Iowa Utilities Board Comments at 5-6; Michigan Commission Comments at 6; NASUCA Comments at 6-7.

[60] A state commission seeking to require thousands-block number pooling in such areas shall notify the Wireline Competition Bureau, the NANPA and the Pooling Administrator prior to extending the thousands-block number

(continued....)

may not, however, require exempted carriers to participate in pooling in these extended areas.

22. *Untimely Petition for Reconsideration and Motions.* On May 6, 2002, AT&T filed a petition for reconsideration of the *Numbering Resource Optimization Third Order on Reconsideration,* requesting that the Commission reconsider its decision to permit incumbent LECs to recover the extraordinary costs of thousands-block number pooling through access charges.[61] We deny AT&T's petition as untimely filed. We nevertheless briefly discuss the merits of AT&T's petition on our own motion. Because we find that no new issues have been raised that were not addressed in the *Numbering Resource Optimization Third Report and Order*, we decline to reconsider the Commission's prior findings regarding pooling cost recovery.

23. A petition for reconsideration in a rulemaking proceeding must be filed within 30 days after public notice of the Commission's action.[62] The Commission's rules provide that public notice in a rulemaking proceeding occurs upon publication of the document, or a summary thereof, in the Federal Register.[63] In the *Numbering Resource Optimization Third Report and Order*, the Commission established the appropriate cost recovery mechanism for thousands-block number pooling, and that issue was not reopened in the *Numbering Resource Optimization Third Order on Reconsideration*. The *Numbering Resource Optimization Third Report and Order* was published in the Federal Register on February 12, 2002;[64] and, therefore, petitions for reconsideration were due by March 14, 2002. As noted, AT&T did not file its petition until May 6, 2002.[65] We therefore find that AT&T's petition for reconsideration was untimely filed, and dismiss it accordingly.

24. Acknowledging that its petition may be untimely, AT&T also argues that the effect of the *Numbering Resource Optimization Third Report and Order* was not readily apparent at the reconsideration deadline for that order and asks the Commission to reconsider its decision on its own motion.[66] Notwithstanding our dismissal of AT&T's petition as untimely, we briefly address the merits of AT&T's arguments below and conclude that no change in pooling cost recovery should be made.

25. In the *Numbering Resource Optimization Third Report and Order*, the Commission

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(...continued from previous page)
pooling requirements, and shall give affected carriers a reasonable amount of time to deploy the necessary LRN architecture to begin participating in pooling.

[61] *See* AT&T Petition for Reconsideration.

[62] 47 U.S.C. § 405(a); 47 C.F.R. § 1.429(d); *see also* Verizon Comments to AT&T Petition for Reconsideration at 1. Because the time for filing a petition for reconsideration is prescribed by statute, the Commission may not ordinarily waive or extend the filing period. *See Virgin Islands Telephone Corp v. FCC*, 989 F.2d 1231, 1237 (D.C. Cir. 1993); *Reuters Ltd. v. FCC*, 781 F.2d 946, 951-52 (D.C. Cir. 1986); *cf. Freeman Engineering Associates v. FCC,* 103 F.3d 169, 183 (D.C. Cir. 1997) ("late filed petitions should be considered by an agency 'where the late filing is in some sense attributable to a procedural violation by the Commission'" (quoting *Gardner v. FCC*, 530 F.2d 1086, 1091 (D.C.Cir.1976))).

[63] 47 C.F.R. § 1.4(b).

[64] *See* 67 Fed. Reg. 6431 (Feb. 12, 2002).

[65] May 6, 2002 was the deadline for filing petitions for reconsideration of the *Numbering Resource Optimization Third Order on Reconsideration.* Because the *Numbering Resource Optimization Third Order on Reconsideration* did not address pooling cost recovery, however, AT&T's petition cannot be considered to seek reconsideration of that order.

[66] *See* AT&T Petition for Reconsideration at 7-8 n.19.

determined that incumbent LECs subject to rate of return or price cap regulation may recover their extraordinary carrier-specific costs directly related to thousands-block number pooling implementation through existing cost recovery mechanisms.[67] The Commission concluded that, because thousands-block number pooling had been mandated as a national numbering resource optimization strategy, permitting recovery of the extraordinary costs of number pooling in access charges is appropriate.[68]

26. AT&T argues that carriers should bear their own carrier-specific pooling costs, and that allowing recovery of pooling costs through access charges inappropriately allows incumbent LECs to shift their costs to interexchange carriers (IXCs).[69] In the *Numbering Resource Optimization Third Report and Order*, the Commission considered this argument and found that numbering administration is inherently access-related, explaining that without numbers, the provision of which is a basic telephone network function, IXCs would be unable to route subscriber calls. Pooling is an enhancement of ordinary numbering administration, and access charges are the means by which access customers share in the costs of operating and maintaining the telephone network.[70] Accordingly, the Commission concluded that it is appropriate for IXCs and other access customers to share in the costs of thousands-block number pooling.[71] AT&T also argues that permitting incumbent LECs to recover pooling costs in access charges is an impermissible subsidy in violation of section 254(e) of the Act.[72] In the *Numbering Resource Optimization Third Report and Order*, the Commission addressed this claim by finding that, because access charges are intended to recover a portion of telephone network costs, permitting recovery of the extraordinary costs of number pooling in access charges is neither an implicit or explicit subsidy.[73]

27. AT&T further argues that this pooling cost recovery mechanism is not competitively neutral, in violation of section 251(e) of the Act.[74] To the contrary, the Commission concluded in the *Numbering Resource Optimization Third Report and Order* that pooling, as a numbering resource optimization strategy, is a part of numbering administration, and that access charges are intended to recover a portion of telephone network costs, which include number administration costs.[75] Thus, permitting recovery of the extraordinary costs of thousands-block number pooling through access charges is consistent with the statutory mandate of competitive neutrality.[76] AT&T also suggests that the Commission's decision to

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[67] *See Numbering Resource Optimization Third Report and Order*, 17 FCC Rcd at 268.

[68] *Id.* at 271.

[69] *See* AT&T Petition for Reconsideration at 1; AT&T Reply Comments to AT&T Petition for Reconsideration at 1.

[70] *See Numbering Resource Optimization Third Report and Order*, 17 FCC Rcd at 269.

[71] *Id.*

[72] *See* AT&T Petition for Reconsideration at 2-4; 47 U.S.C. § 254(e).

[73] *See Numbering Resource Optimization Third Report and Order*, 17 FCC Rcd at 271.

[74] *See* AT&T Petition for Reconsideration at 4-6; 47 U.S.C. § 251(e).

[75] *See Numbering Resource Optimization Third Report and Order*, 17 FCC Rcd at 269-70.

[76] *See id.; see also Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7669. Section 251(e)(2) requires that "[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission." 47 U.S.C. § 251(e)(2). In the *Numbering Resource Optimization First Report and Order*, the Commission determined that a pooling cost recovery mechanism was necessary for price cap and rate-of-return carriers but, noting disagreement among commenters as to how costs should be recovered, sought further comment as to the form that recovery mechanism should take. *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7669, 7670-71.

permit thousands-block number pooling cost recovery through access charges is inconsistent with the *Numbering Resource Optimization First Report and Order* and with the Commission's decision not to allow recovery of LNP costs through access charges.[77] We find that the decision to allow recovery of thousands-block number pooling costs through access charges is fully consistent with the Commission's decisions in prior orders. In the *Numbering Resource Optimization First Report and* Order, the Commission adopted the same competitively neutral cost recovery framework for thousands-block number pooling that it adopted for LNP, but it also found that the determination of the appropriate cost recovery mechanism (*i.e.*, recovery through access or, alternatively, end-user charge) would be decided in a future order after further comment.[78] In the *Numbering Resource Optimization Third Report and Order*, the Commission followed the reasoning of the *LNP Third Report and Order* to conclude that unlike LNP, thousands-block number pooling is access related, and thus recovery of pooling costs through access charges *is* competitively neutral.[79] AT&T otherwise raises no new evidence or arguments not already considered by the Commission. Accordingly, we decline to reconsider our prior order.

28. Finally, we grant the motion of the California Commission to accept its late filed comments.[80] On our own motion, we also accept the late filed reply comments of the Texas Commission.

IV. FURTHER NOTICE OF PROPOSED RULEMAKING

29. In its comments, AT&T Wireless proposes that carriers, regardless of their size, operating in rate centers with fewer than three service providers, be exempt from the pooling requirement.[81] AT&T also suggests that if a state commission believes that significant number optimization benefits could be obtained in rate centers with only two carriers, the state commission could petition the Commission to require those carriers to participate in pooling.[82] In the foregoing paragraphs of this *Numbering Resource Optimization Fourth Report and Order*, we exempt carriers from the pooling requirement if they are the only carrier in a rate center receiving numbering resources, but there is insufficient evidence in the record to determine whether rate centers with two competing service providers should also be exempt from pooling, as AT&T suggests.

30. We therefore seek comment on whether to extend the exemption established herein to carriers operating in rate centers with two service providers. In light of our prior finding that pooling provides the greatest benefit when participation is maximized, commenters that support extending the exemption should provide specific information on the number of carriers that would be affected by such an extension, so the Commission can determine how pooling deployment will be affected. Commenters advocating an extension of the current exemption should provide specific, per carrier, pooling cost information to enable the Commission to properly balance the benefits of pooling against the costs to

[77] *See* AT&T Petition for Reconsideration at 3 (referring to *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7662-63; *Telephone Number Portability*, CC Docket No. 95-116, Third Report and Order, 13 FCC Rcd 11701, 11773 (1998) (*LNP Third Report and Order*)).

[78] *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7662-63.

[79] *See Numbering Resource Optimization Third Report and Order*, 17 FCC Rcd at 269-70 (*citing LNP Third Report and Order*, 13 FCC Rcd at 11726-28, 11731-32).

[80] *See* Motion to Accept Late-Filed Comments of California Public Utilities Commission (filed May 9, 2002).

[81] AT&T Wireless Comments at 7.

[82] *Id.* at n.19.

carriers and their customers.

V. PROCEDURAL MATTERS

A. *Ex Parte* Presentations

31. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. See 47 C.F.R. §§ 1.1200 and 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required. *See* 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in 47 C.F.R. § 1.1206(b).

B. Comment Filing Procedures

32. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415 and 1.419, interested parties may file comments on or before 30 days after publication of a summary of this item in the Federal Register and may file reply comments on or before 45 days after publication of a summary of this item in the Federal Register. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents*, 63 Fed. Reg. 24121 (1998).

33. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. After filing your comments electronically, please notify Sheryl Todd at stodd@fcc.gov that comments have been filed.

34. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

35. In addition, one copy of each pleading must be sent to the Commission's duplicating contractor, Qualex International, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: qualexint@aol.com; facsimile: (202) 863-2898; phone: (202) 863-2893.

36. Comments in this proceeding will be available on ECFS. They will also be available for public inspection and copying during regular business hours at the FCC Reference Information Center,

Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com. Documents may also be purchased from the Commission's duplicating contractor. Alternative formats (computer diskette, large print, audio recording and Braille) are available to persons with disabilities by contacting Brian Millin, of the Consumer and Governmental Affairs Bureau, at (202) 418-7426 (voice) or (202) 418-7365 (TTY), or at bmillin@fcc.gov. This Public Notice can also be downloaded in Text and ASCII formats at: http://www.fcc.gov/cib/dro.

37. For further information, please contact Pam Slipakoff, Wireline Competition Bureau, Telecommunications Access Policy Division, at 202-418-7400, or via e-mail at pslipako@fcc.gov. The TTY number is 202-418-0484.

C. Final Regulatory Flexibility Analysis

38. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[83] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Third Order on Reconsideration in CC Docket No. 99-200, Third Further Notice of Proposed Rulemaking in CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 95-116* (*Further Notice*).[84] The Commission sought written public comment on the proposals in the *Further Notice*, including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[85]

1. *Need for, and Objectives of, the Fourth Report and Order*

39. In the *Further Notice*, we sought public comment on whether we should again extend the local number portability (LNP) requirements to all carriers in the 100 largest Metropolitan Statistical Areas (MSAs), regardless of whether they receive a request to provide LNP. We also sought comment on whether all carriers in the 100 largest MSAs should be required to participate in thousands-block number pooling regardless of whether they are required to be LNP capable. Finally, we sought comment on whether all MSAs included in the consolidated metropolitan statistical areas (CMSAs) should be included on the Commission's list of the 100 largest MSAs.

40. With this *Fourth Report and Order in CC Docket No. 99-200 and Fourth Report and Order in CC Docket No. 95-116*, we continue efforts to maximize the efficiency with which numbering resources in the North American Numbering Plan (NANP) are used. We also attempt to continue the implementation of telephone number portability and thousands-block number pooling with the minimum regulatory and administrative burden on telecommunications carriers. In particular, we reaffirm that carriers need only deploy LNP in switches within the 100 largest MSAs for which another carrier has made a specific request for the provision of LNP. We also delegate authority to the state commissions to require carriers operating within the largest 100 MSAs that have not received a specific request for LNP from another carrier to provide LNP, under certain circumstances and on a case-by-case basis. We also conclude that all carriers, except those specifically exempted, are required to participate in thousands-

[83] *See* 5 U.S.C. § 603. The RFA has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

[84] *Numbering Resource Optimization*, Third Order on Reconsideration in CC Docket No.99-200, Third Further Notice of Proposed Rulemaking in CC Docket 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket 95-116, 17 FCC Rcd 4784 (2002) (*Further Notice*).

[85] *See* 5 U.S.C. § 604.

block number pooling in accordance with the national rollout schedule, regardless of whether they are required to provide LNP including covered commercial mobile radio service (CMRS) providers that are not required to deploy LNP until November 24, 2003. We specifically exempt rural telephone companies and Tier III CMRS providers[86] that have not received a request to provide LNP from the pooling requirement. We also exempt from the pooling requirement carriers that are the only service provider receiving numbering resources in the rate center. We also find AT&T's petition for reconsideration of the Commission's decision to permit incumbent local exchange carriers (LECs) to recover the extraordinary costs of thousands-block number pooling through access charges to be untimely and without merit.

2. *Summary of Significant Issues Raised by Public Comments in Response to the IFRA*

41. No comments specifically addressed the IFRA. Commenters, however, responded to several issues addressed in the *Further Notice* that concern small entities. Generally, commenters from the state commissions support extending the LNP requirement to all carriers in the 100 largest MSAs, regardless of whether there has been a request.[87] Most commenters agree that all carriers in the 100 largest MSAs should be required to participate in thousands-block number pooling regardless of whether they are LNP capable.[88] Several of these commenters suggest that thousands-block number pooling should be as expansive as possible in order to promote efficient and effective numbering resource optimization.[89] Other commenters suggested that an exemption should be established for small carriers.

3. *Description and Estimate of the Number of Small Entities to Which Rules Will Apply*

42. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein.[90] The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[91] The term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more

[86] Tier III CMRS providers are defined as CMRS providers with 500,000 or fewer subscribers as of the end of 2001. The Small Business Administration has approved the Commission's use of this size standard. *See* Letter from Hector V. Barreto, Administrator, SBA to Blaise Scinto, Acting Chief, Policy Division, Wireless Telecommunications Bureau, FCC (dated Jan. 21, 2003).

[87] California Commission Comments at 4-8; California Commission Reply Comments at 4-13; Iowa Utilities Board Comments at 2-4; Michigan Commission Comments at 3-4; NASUCA Comments at 2-6; NYSDPS Comments at 1-2; Ohio Commission Comments at 2-6; Texas Commission Reply Comments at 1-2; VoiceStream Comments; WorldCom Comments at 1-3.

[88] California Commission Comments at 4-8; Iowa Utilities Board Comments at 4-5; NASUCA Comments at 2-6; NYSDPS Comments at 1-2; Ohio Commission Comments at 7-9 (the Ohio Commission believes that thousands-block number pooling is better for number conservation than LNP at this time because of the limited amount of competition that currently exists);Texas Commission Reply Comments at 2; VoiceStream Comments at 2-4; WorldCom Comments at 1-3.

[89] *Id.*

[90] 5 U.S.C. § 604(a)(3).

[91] 5 U.S.C. § 601(6).

definitions that are appropriate for its activities.[92] Under the Small Business Act, a "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[93]

43. The most reliable source of information regarding the total number of certain common carriers and related providers nationwide, as well as the number of commercial wireless entities, appears to be data the Commission publishes bi-annually in its Trends in Telephone Service Report.[94] According to data in the most recent report, there are 5,679 interstate carriers.[95] These carriers include, inter alia, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone service, providers of telephone exchange service, and resellers.

44. We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, inter alia, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."[96] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.[97] We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

45. *Wired Telecommunications Carriers*. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1500 or fewer employees.[98] According to Census Bureau data for 1997, there were 2,225 wired telecommunications carriers that had 1,500 or fewer employees.[99] Of this total, 2,201 firms had 999 or fewer employees, and 24 firms had employment of 1,000 employees or more.[100] Thus, we estimate that

[92] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register." 5 U.S.C. § 601(3).

[93] 15 U.S.C. § 632.

[94] FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, "Trends in Telephone Service" at Table 5.3, page 5-5 (May 2002) (Trends in Telephone Service). FCC web site location (see online page 34): http://fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/trend502.pdf.

[95] *Id.*

[96] 5 U.S.C. § 601(3).

[97] Letter *from* Jere W. Glover, Chief Counsel for Advocacy, SBA, *to* William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." *See* 15 U.S.C. § 632(a) (Small Business Act); 5 U.S.C. § 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 C.F.R. 121.102(b).

[98] 13 C.F. R. § 121.201, North American Industry Classification System (NAICS) code 513310.

[99] U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Employment Size of Firms Subject to Federal Income Tax: 1997," Table 5, NAICS code 513310 (issued Oct. 2000).

[100] *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1,000 employees or more."

no more than 2,225 wired telecommunication carriers are small businesses that may be affected by the regulations.

46. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition specifically for small LECs. The closest applicable definition under the SBA rules is for Wired Telecommunications Carriers.[101] According to the Trends in Telephone Service data, 1,329 incumbent carriers reported that they were engaged in the provision of local exchange services.[102] Of these 1,329 companies, an estimated 1,024 have 1,500 or fewer employees and an estimated 305 have more than 1,500 employees (alone or in combination with affiliates). Consequently, we estimate that no more than 1,024 providers of local exchange service are small businesses that may be affected by the regulations.

47. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for Wired Telecommunications Carriers.[103] According to the Trends in Telephone Service data, 229 carriers reported that they were engaged in the provision of interexchange services.[104] Of these 229 companies, 181 have 1,500 or fewer employees and 48 have more than 1,500 employees (alone or in combination with affiliates). Consequently, we estimate that no more than 181 small entity IXCs may be affected by the regulations.

48. *Competitive Access Providers* (CAPs). Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to CAPs. The closest applicable definition under the SBA rules is for Wired Telecommunications Carrier.[105] According to the Trends in Telephone Service data, 532 CAPs and competitive LECs and 55 other LECs reported that they were engaged in the provision of competitive local exchange services.[106] Of these 587 companies, 411 CAPs and competitive LECs and 53 other LECs have 1,500 or fewer employees and 121 CAPs and competitive LECs and 2 other LECs have more than 1,500 employees (alone or in combination with affiliates). Consequently, we estimate that no more than 411 small entity CAPs and 53 other LECs may be affected by the regulations.

49. *Resellers (including debit card providers).* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is for Wired Telecommunications Carriers.[107] According to the Trends in Telephone Service data, 576 toll resellers and 134 local resellers reported that they were engaged in the resale of telephone service.[108] Of these 710 companies, 669 have 1,500 or fewer employees and 41 have more than 1,500 employees (alone or in combination with affiliates). Consequently, we estimate that no more than 669 small entity resellers may be affected by the regulations.

50. *Wireless Telephony including Cellular, Personal Communications Service (PCS) and*

[101] 13 C.F.R. § 121.201, NAICS code 513310.

[102] Trends in Telephone Service at Table 5.3.

[103] 13 C.F.R. § 121.201, NAICS code 513310.

[104] Trends in Telephone Service at Table 5.3.

[105] 13 C.F.R. § 121.201, NAICS code 513310.

[106] Trends in Telephone Service at Table 5.3.

[107] 13 C.F.R. § 121.201, NAICS code 513330.

[108] Trends in Telephone Service at Table 5.3.

Specialized Mobile Radio (SMR) Telephony Carriers. Wireless telephony includes cellular, PCS or SMR service providers. The SBA has developed a definition of small entities applicable to cellular licensees that consists of all such companies having 1500 or fewer employees.[109] According to the Trends in Telephone Service data, 858 carriers reported that they were engaged in the provision of wireless telephony.[110] Of these 858 companies, 291 wireless telephony providers have 1,500 or fewer employees and 567 wireless telephony providers have more than 1,500 employees (alone or in combination with affiliates). Consequently, we estimate that no more than 291 small carriers providing wireless telephony services may be affected by the regulations.

51. *Paging Service.* The SBA has developed a definition of small entities applicable to providers of paging services that consists of all such companies having 1500 or fewer employees.[111] According to the Trends in Telephone Service data, 576 companies reported that they were engaged in the provision of paging service.[112] Of these 1434 companies, 557 paging companies have 1,500 or fewer employees and 19 paging companies have more than 1,500 employees (alone or in combination with affiliates). Consequently, we estimate that no more than 291 small carriers providing paging services may be affected by the regulations.

4. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

52. The requirements discussed herein should not require additional reporting, recordkeeping or compliance requirements for service providers. In this Report and Order, we are not mandating new recordkeeping and compliance requirements. Rather, we are affirming, clarifying or reducing requirements.

5. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

53. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[113]

54. In this *Fourth Report and Order*, we decline to extend local number portability requirements to carriers operating in the 100 largest MSAs that have not yet received a request to deploy local number portability from a competing carrier. By maintaining our current local number portability requirement, we will not impose new burdens on small carriers operating in the 100 largest MSAs. We believe that the costs associated with the alternative of requiring all carriers, including small entities, to deploy local number portability in the absence of a request would outweigh any number optimization benefit.

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[109] 13 C.F.R. § 121.201, NAICS code 513322.

[110] Trends in Telephone Service at Table 5.3.

[111] 13 C.F.R. § 121.201, NAICS code 513321.

[112] Trends in Telephone Service at Table 5.3.

[113] 5 U.S.C. § 603(c).

55. In addition, we exempt rural telephone companies and Tier III CMRS carriers from the pooling requirement until they are required to implement LNP. We also exempt from the pooling requirement carriers operating in rate centers where they are the only service provider receiving numbering resources. Once such a carrier receives a request to provide LNP, the carrier must then also participate in pooling in areas where it is deployed. If, however, a state believes that a carrier that qualifies for this exemption should participate in pooling to further our numbering resource optimization goals, the state commission may petition the Commission for authority to require such carriers to implement pooling.

56. Report to Congress: The Commission will send a copy of this *Fourth Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.[114] In addition, the Commission will send a copy of this Fourth Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of this Fourth Report and Order and FRFA (or summaries thereof) will also be published in the Federal Register.[115]

D. Initial Regulatory Flexibility Analysis

57. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[116] the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Fourth Report and Order in CC Docket No. 99-200, Fourth Further Notice of Proposed Rulemaking in CC Docket No. 99-200, and Fourth Report and Order in CC Docket No. 95-116 (*Fourth Further Notice*). Written public comments are requested on this IFRA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Fourth Further Notice*. The Commission will send a copy of the *Fourth Further Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.[117] In addition, this *Fourth Further Notice* (or a summary) will be published in the Federal Register.

1. *Need for, and Objectives of, the Proposed Rules*

58. The Commission is issuing this *Fourth Further Notice* to seek comment on a proposal to exempt carriers, regardless of size, from the Commission's pooling requirement if they are in rate centers with only two service providers. We also ask commenters that support extending the exemption to provide specific information on the number of carriers that would be affected by such an extension, so the Commission can determine how pooling deployment will be affected. Commenters advocating an extension of the current exemption should provide specific, per carrier, pooling cost information to enable the Commission to properly balance the benefits of pooling against the costs to carriers and their customers. Thus, we request a cost-benefit analysis showing how the benefits of pooling can be achieved without undue burden on carriers. In doing so, we seek to ensure that the limited numbering resources of the NANP are used efficiently.

2. *Legal Basis*

59. The authority for actions proposed in this *Fourth Further Notice* may be found in sections 1,

[114] *See* 5 U.S.C. § 801(a)(1)(A).

[115] *See* 5 U.S.C. § 604(b).

[116] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § § 601 – 612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

[117] *See* 5 U.S.C. §603(a).

3, 4, 201-205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 153, 154, 201-205, and 251.

3. *Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply*

60. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the rules proposed herein.[118] The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[119] The term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities.[120] Under the Small Business Act, a "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[121]

61. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be data the Commission publishes bi-annually in its Trends in Telephone Service Report.[122] According to data in the most recent report, there are 5,679 interstate carriers.[123] These carriers include, inter alia, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone service, providers of telephone exchange service, and resellers.

62. We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, inter alia, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."[124] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.[125] We have therefore included small incumbent LECs in this RFA analysis,

[118] 5 U.S.C. § 604(a)(3).

[119] 5 U.S.C. § 601(6).

[120] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register." 5 U.S.C. § 601(3).

[121] 15 U.S.C. § 632.

[122] FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, "Trends in Telephone Service" at Table 5.3, page 5-5 (May 2002) (Trends in Telephone Service). FCC web site location (see online page 34): http://fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/trend502.pdf.

[123] *Id.*

[124] 5 U.S.C. § 601(3).

[125] Letter *from* Jere W. Glover, Chief Counsel for Advocacy, SBA, *to* William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." *See* 15 U.S.C. § 632(a) (Small Business Act); 5 U.S.C. § 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 C.F.R. 121.102(b).

although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

63. *Local Exchange Carriers and Competitive Access Providers*. Neither the Commission nor the SBA has developed a definition specifically for small providers of local exchange services. The closest applicable definition under the SBA rules is for wired telecommunications carriers.[126] This provides that a wired telecommunications carrier is a small entity if it employs no more than 1,500 employees.[127] According to the most recent Commission data there are 1,619 local services providers with 1,500 or fewer employees.[128] Because it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Of the 1,619 local service providers, 1,024 are incumbent local exchange carriers, 411 are CAPs and competitive LECs, 131 are resellers and 53 are other local exchange carriers.[129] Consequently, we estimate that fewer than 1,619 providers of local exchange service are small entities or small incumbent local exchange carriers that may be affected.

64. *Cellular and Wireless Telephony*. Neither the Commission nor the SBA has developed a definition of small entities specifically for wireless telephony. The closest definition is the SBA definition for cellular and other wireless telecommunications.[130] Under this definition, a cellular licensee is a small entity if it employs no more than 1,500 employees.[131] According to the most recent Commission data, 580 providers classified themselves as providers of wireless telephony, including cellular telecommunications, Personal Communications Service, and SMR Telephony Carriers.[132] We do not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 580 wireless telephony carriers that may be affected.

65. *Other Wireless Services*. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to wireless services other than wireless telephony.[133] The closest applicable definition under the SBA rules is again that of cellular and other wireless telecommunications,

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[126] 13 C.F. R. § 121.201, NAICS code 513310.

[127] *Id.*

[128] Estimates are based upon FCC Form 499-A worksheets, filed April 1, 2001, combined with public employment data from FCC ARMIS filings and Securities Exchange Commission filings. These estimates do not reflect affiliates that do not provide telecommunications service or that operate solely outside the United States. Trends in Telephone Service at Table 5.3.

[129] *Id.*

[130] 13 C.F.R. § 121.201, NAICS Code 513322.

[131] *Id.*

[132] Trends in Telephone Service at Table 16.3.

[133] The Commission has adopted a number of service-specific definitions of small businesses for various categories of wireless service, principally in the context of the Commission's rules governing spectrum auctions. *See Assessment and Collection of Regulatory Fees for Fiscal Year 2001*, MD Docket No. 01-76, FCC 01-196, Attachment A, paras. 31-54 (rel. July 2, 2001). For purposes of administering the schools and libraries universal service program, however, we find that it is appropriate to address the various non-telephony wireless services as a group.

under which a service provider is a small entity if it employs no more than 1,500 employees.[134] According to the most recent Commission data, 595 providers classified themselves as paging services, wireless data carriers or other mobile service providers.[135] We do not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireless service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 595 wireless service providers that may be affected.

4. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

66. No new recording, recordkeeping or other compliance requirements are proposed. The proposal, if adopted, would create an exemption from regulation for carriers operating in areas where there are only two competing service providers.

5. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

67. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): "(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities."[136]

68. The Commission's action in this *Fourth Further Notice* will benefit certain small entities by exempting them from the pooling requirement under certain circumstances. Specifically, we seek comment on whether carriers, regardless of size, in rate centers with only two service providers should be exempted from thousands-block number pooling. Thus, we seek to further minimize the burden on small carriers.

6. *Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules*

69. None.

E. Final Paperwork Reduction Act Analysis

70. This Report and Order does not contain either a proposed or modified information collection, and therefore, there is no need to seek comments from the general public and the OMB.

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[134] 13 C.F.R. § 121.201, NAICS Code 513322.

[135] Estimates are based upon FCC Form 499-A worksheets, filed April 1, 2001, combined with public employment data from FCC ARMIS filings and Securities Exchange Commission filings. These estimates do not reflect affiliates that do not provide telecommunications service or that operate solely outside the United States. Trends in Telephone Service.

[136] 5 U.S.C. § 603(c)(1) – (c)(4).

VI. ORDERING CLAUSES

71. Accordingly, IT IS ORDERED that, pursuant to the authority contained in Sections 1, 3, 4, 201-205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 153, 154, 201-205, and 251, this FOURTH REPORT AND ORDER is hereby ADOPTED and Part 52 of the Commission's rules ARE AMENDED AND ADOPTED as set forth in the attached Appendix A.

72. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1, 2, 3, 4, 251(e), 254(e), and 405 of the Communications Act of 1934, as amended, 47 U.S.C §§ 151, 152, 153, 154, 251(e), 254(e), and 405, and section 1.429 of the Commission's rules, 47 C.F.R. § 1.429, the petition for reconsideration filed by AT&T on May 6, 2002 IS DENIED.

73. IT IS FURTHER ORDERED that, pursuant to the authority contained in Sections 1, 3, 4, 201-205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 153, 154, 201-205, and 251, this FOURTH FURTHER NOTICE OF PROPOSED RULEMAKING is hereby ADOPTED.

74. IT IS FURTHER ORDERED that the amendments to sections 52.20 through 52.31 of the Commission's rules as set forth in Appendix A ARE ADOPTED, effective thirty days from the date of publication in the Federal Register. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose no new or modified reporting and/or recordkeeping requirements or burdens on the public.

75. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Fourth Report and Order in CC Docket No. 99-200 and CC Docket No. 95-116 and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 99-200, including this Final Regulatory Flexibility Analysis and Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

RECEIVED & INSPECTED
JUN 18 2003
FCC - MAIL ROOM

APPENDIX A

Final Rules

Part 52 – NUMBERING

Subpart C – Number Portability

1. The authority citation for Part 52 continues to read as follows:

AUTHORITY: Sections 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. § 151, 152, 154, 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201-05, 207-09, 218, 225-7, 251-2, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201-205, 207-09, 218, 225-7, 251-2, 271 and 332 unless otherwise noted.

2. Section 52.20 is revised to read as follows:

§ 52.20 Thousands-block number pooling.

****

(b) *General Requirements*. Pursuant to the Commission's adoption of thousands-block number pooling as a mandatory nationwide numbering resource optimization strategy, all carriers, except those exempted by the Commission, must participate in thousands-block number pooling where it is implemented and in accordance with the national thousands-block number pooling framework and implementation schedule established by the Commission.

***

3. Section 52.21 is revised to add a new subsection (a) to read as follows and to redesignate old subsections accordingly:

§ 52.21 Definitions.

***

(a) The term *100 largest MSAs* includes the 100 largest MSAs as identified in the 1990 U.S. Census reports, as set forth in the Appendix to this part, as well as those areas identified as one of the largest 100 MSAs on subsequent updates to the U.S. Census reports.

***

4. Section 52.23 is revised to read as follows:

§ 52.23 Deployment of long-term database methods for number portability by LECs.

***

(b) (1) All LECs must provide a long-term database method for number portability in the 100 largest Metropolitan Statistical Areas (MSAs), as defined in Section 52.21(k) of this part, in switches for which another carrier has made a specific request for the provision of number portability, subject to paragraph (b)(2) of this section.

***

5. Section 52.31 is revised to read as follows:

§ 52.31 Deployment of long-term database methods for number portability by CMRS providers.

(a) By November 24, 2003, all covered CMRS providers must provide a long-term database method for number portability in the 100 largest MSAs, as defined in section 52.21(k) of this part, in compliance with the performance criteria set forth in section 52.23(a) of this part***.

(1) ***

(i) ***

(ii) Carries requesting deployment in the 100 largest MSAs by November 24, 2003 must submit requests by February 24, 2003.

(iii) ***

(iv) After November 24, 2003, a covered CMRS provider must deploy number portability in additional switches upon request within the following time frames:

***

APPENDIX B

List of the 100 Largest Metropolitan Statistical Areas (MSAs)

A. 100 Largest MSAs and Their Populations: Year 2000 Census

1. Los Angeles—Long Beach, CA	9,519,338
2. New York, NY	9,314,235
3. Chicago, IL PMSA	8,272,768
4. Philadelphia, PA—NJ	5,100,931
5. Washington, DC—MD—VA—WV	4,923,153
6. Detroit, MI	4,441,551
7. Houston, TX	4,177,646
8. Atlanta, GA	4,112,198
9. Dallas, TX	3,519,176
10. Boston, MA—NH	3,406,829
11. Riverside—San Bernardino, CA	3,254,821
12. Phoenix—Mesa, AZ	3,251,876
13. Minneapolis—St. Paul, MN—WI	2,968,806
14. Orange County, CA	2,846,289
15. San Diego, CA	2,813,833
16. Nassau—Suffolk, NY	2,753,913
17. St. Louis, MO—IL	2,603,607
18. Baltimore, MD	2,552,994
19. Seattle—Bellevue—Everett, WA	2,414,616
20. Tampa—St. Petersburg—Clearwater, FL	2,395,997
21. Oakland, CA	2,392,557
22. Pittsburgh, PA	2,358,695
23. Miami, FL	2,253,362
24. Cleveland—Lorain—Elyria, OH	2,250,871
25. Denver, CO	2,109,282
26. Newark, NJ	2,032,989
27. San Juan—Bayamon, PR	1,967,627
28. Portland—Vancouver, OR—WA	1,918,009
29. Kansas City, MO—KS	1,776,062
30. San Francisco, CA	1,731,183
31. Fort Worth—Arlington, TX	1,702,625
32. San Jose, CA	1,682,585
33. Cincinnati, OH—KY—IN	1,646,395
34. Orlando, FL	1,644,561
35. Sacramento, CA	1,628,197
36. Fort Lauderdale, FL	1,623,018
37. Indianapolis, IN	1,607,486
38. San Antonio, TX	1,592,383
39. Norfolk—Virginia Beach—Newport News, VA—NC	1,569,541
40. Las Vegas, NV—AZ	1,563,282
41. Columbus, OH	1,540,157
42. Milwaukee—Waukesha, WI	1,500,741
43. Charlotte—Gastonia—Rock Hill, NC—SC	1,499,293
44. Bergen—Passaic, NJ	1,373,167
45. New Orleans, LA	1,337,726

46. Salt Lake City—Ogden, UT	1,333,914
47. Greensboro—Winston-Salem—High Point, NC	1,251,509
48. Austin—San Marcos, TX	1,249,763
49. Nashville, TN	1,231,311
50. Providence—Fall River—Warwick, RI—MA	1,188,613
51. Raleigh—Durham—Chapel Hill, NC	1,187,941
52. Hartford, CT	1,183,110
53. Buffalo—Niagara Falls, NY	1,170,111
54. Middlesex—Somerset—Hunterdon, NJ	1,169,641
55. Memphis, TN—AR—MS	1,135,614
56. West Palm Beach—Boca Raton, FL	1,131,184
57. Monmouth—Ocean, NJ	1,126,217
58. Jacksonville, FL	1,100,491
59. Rochester, NY	1,098,201
60. Grand Rapids—Muskegon—Holland, MI	1,088,514
61. Oklahoma City, OK	1,083,346
62. Louisville, KY—IN	1,025,598
63. Richmond—Petersburg, VA	996,512
64. Greenville—Spartanburg—Anderson, SC	962,441
65. Dayton—Springfield, OH	950,558
66. Fresno, CA	922,516
67. Birmingham, AL	921,106
68. Honolulu, HI	876,156
69. Albany—Schenectady—Troy, NY	875,583
70. Tucson, AZ	843,746
71. Tulsa, OK	803,235
72. Ventura, CA	753,197
73. Syracuse, NY	732,117
74. Omaha, NE—IA	716,998
75. Albuquerque, NM	712,738
76. Tacoma, WA	700,820
77. Akron, OH	694,960
78. Knoxville, TN	687,249
79. El Paso, TX	679,622
80. Bakersfield, CA	661,645
81. Allentown—Bethlehem—Easton, PA	637,958
82. Gary, IN	631,362
83. Harrisburg—Lebanon—Carlisle, PA	629,401
84. Scranton—Wilkes-Barre—Hazleton, PA	624,776
85. Toledo, OH	618,203
86. Jersey City, NJ	608,975
87. Baton Rouge, LA	602,894
88. Youngstown—Warren, OH	594,746
89. Springfield, MA	591,932
90. Sarasota—Bradenton, FL	589,959
91. Wilmington—Newark, DE—MD	586,216
92. Little Rock—North Little Rock, AR	583,845
93. Ann Arbor, MI	578,736
94. McAllen—Edinburg—Mission, TX	569,463
95. Stockton—Lodi, CA	563,598

96. Charleston—North Charleston, SC	549,033
97. Wichita, KS	545,220
98. New Haven—Meriden, CT	542,149
99. Mobile, AL	540,258
100. Columbia, SC	536,691

B. 100 Largest MSAs and Their Populations: Year 1990 Census (Original list from the LNP First Report and Order, FCC 96-286)

1. Los Angeles, CA	9,150,000
2. New York, NY	8,584,000
3. Chicago, IL	7,668,000
4. Philadelphia, PA	4,949,000
5. Washington, DC	4,474,000
6. Detroit, MI	4,307,000
7. Houston, TX	3,653,000
8. Atlanta, GA	3,331,000
9. Boston, MA*	3,211,000
10. Riverside, CA	2,907,000
11. Dallas, TX	2,898,000
12. Minneapolis, MN	2,688,000
13. Nassau, NY	2,651,000
14. San Diego, CA	2,621,000
15. Orange Co., CA	2,543,000
16. St. Louis, MO	2,536,000
17. Phoenix, AZ	2,473,000
18. Baltimore, MD	2,458,000
19. Pittsburgh, PA	2,402,000
20. Akron, OH	2,222,000
21. Oakland, CA	2,182,000
22. Seattle, WA	2,180,000
23. Tampa, FL	2,157,000
24. Miami, FL	2,025,000
25. Newark, NJ	1,934,000
26. Denver, CO	1,796,000
27. Portland, OR	1,676,000
28. Kansas City, KS	1,647,000
29. San Francisco, CA	1,646,000
30. Cincinnati, OH	1,581,000
31. San Jose, CA	1,557,000
32. Norfolk, VA	1,529,000
33. Fort Worth, TX	1,464,000
34. Indianapolis, IN	1,462,000
35. Milwaukee, WI	1,456,000
36. Sacramento, CA	1,441,000
37. San Antonio, TX	1,437,000
38. Columbus, OH	1,423,000
39. Fort Lauderdale, FL	1,383,000
40. Orlando, FL	1,361,000

41. New Orleans, LA	1,309,000
42. Bergen, NJ	1,304,000
43. Charlotte, NC	1,260,000
44. Buffalo, NY	1,189,000
45. Salt Lake City, UT	1,178,000
46. Hartford, CT*	1,156,000
47. Providence, RI*	1,131,000
48. Greensboro, NC	1,107,000
49. Rochester, NY	1,090,000
50. Las Vegas, NV	1,076,000
51. Nashville, TN	1,070,000
52. Middlesex, NJ	1,069,000
53. Memphis, TN	1,056,000
54. Monmouth, NJ	1,035,000
55. Oklahoma City, OK	1,007,000
56. Grand Rapids, MI	985,000
57. Louisville, KY	981,000
58. Jacksonville, FL	972,000
59. Raleigh, NC	965,000
60. Austin, TX	964,000
61. Dayton, OH	956,000
62. West Palm Beach, FL	955,000
63. Richmond, VA	917,000
64. Albany, NY	875,000
65. Honolulu, HI	874,000
66. Birmingham, AL	872,000
67. Greenville, SC	837,000
68. Fresno, CA	835,000
69. Syracuse, NY	754,000
70. Tulsa, OK	743,000
71. Tucson, AZ	732,000
72. Ventura, CA	703,000
73. Cleveland, OH	677,000
74. El Paso, TX	665,000
75. Omaha, NE	663,000
76. Albuquerque, NM	646,000
77. Tacoma, WA	638,000
78. Scranton, PA	637,000
79. Knoxville, TN	631,000
80. Gary, IN	620,000
81. Toledo, OH	614,000
82. Allentown, PA	612,000
83. Harrisburg, PA	610,000
84. Bakersfield, CA	609,000
85. Youngstown, OH	604,000
86. Springfield, MA*	584,000
87. Baton Rouge, LA	558,000
88. Jersey City, NJ	552,000
89. Wilmington, DE	539,000
90. Little Rock, AR	538,000

91. New Haven, CT*	527,000
92. Charleston, SC	522,000
93. Sarasota, FL	518,000
94. Stockton, CA	518,000
95. Ann Arbor, MI	515,000
96. Mobile, AL	512,000
97. Wichita, KS	507,000
98. Columbia, SC	486,000
99. Vallejo, CA	483,000
100. Fort Wayne, IN	469,000

* Population figures for New England's city and town based MSAs are for 1992, while others are for 1994.

C. MSAs and Their Associated CMSAs in Which States Can Extend Pooling to Non-Exempted Carriers

Boston – Worcester – Lawrence, MA-NH-ME-CT CMSA
- **Boston, MA – NH MSA****
- Brockton, MA MSA
- Fitchburg – Leominster, MA MSA
- Lawrence, MA-NH MSA
- Manchester, NH MSA
- Nashua, NH MSA
- New Bedford, MA MSA
- Portsmouth – Rochester, NH-ME MSA
- Worcester, MA-CT MSA

Chicago – Gary – Kenosha, IL-IN-WI CMSA
- **Chicago, IL MSA**
- **Gary IN, MSA**
- Kankakee, IL MSA
- Kenosha, WI MSA

Cincinnati – Hamilton, OH-KY-IN CMSA
- **Cincinnati, OH-KY-IN MSA**
- Hamilton-Middleton, OH MSA

Cleveland – Akron, OH CMSA
- **Akron, OH MSA**
- **Cleveland – Lorain – Elyria, OH MSA**

Dallas – Fort Worth, TX CMSA
- **Dallas, TX MSA**
- **Fort Worth – Arlington, TX MSA**

Denver – Boulder – Greeley, CO CMSA
- Boulder – Longmont, CO MSA

Denver, CO MSA
Greeley, CO MSA

Detroit-Ann Arbor – Flint, MI CMSA
Ann Arbor, MI MSA
Detroit, MI MSA
Flint, MI MSA

Houston – Galveston – Brazoria, TX CMSA
Brazoria, TX MSA
Galveston – Texas City, TX MSA
Houston, TX MSA

Los Angeles – Riverside – Orange County, CA CMSA
Los Angeles – Long Beach, CA MSA
Orange County, CA MSA
Riverside – San Bernardino, CA MSA
Ventura, CA MSA

Miami – Fort Lauderdale, FL CMSA
Fort Lauderdale, FL MSA
Miami, FL MSA

Milwaukee – Racine, WI CMSA
Milwaukee – Waukesha, WI MSA
Racine, WI MSA

New York – Northern New Jersey – Long Island, NY-NJ-CT-PA CMSA
Bergen – Passaic, NJ MSA
Bridgeport, CT MSA
Danbury Ct, MSA
Duchess County, NY PMSA
Jersey City, NJ MSA
Middlesex – Somerset – Hunterdon, NJ MSA
Monmouth – Ocean, NJ MSA
Nassau – Suffolk, NY MSA
Newburgh, NY-PA MSA
New Haven – Meriden, CT MSA
New York, NY MSA
Newark, NJ MSA
Stamford – Norwalk, CT MSA
Trenton, NJ MSA
Waterbury, CT MSA

Philadelphia – Wilmington – Atlantic City, PA-NJ-DE-MD CMSA
Atlantic – Cape May, NJ MSA
Philadelphia, PA-NJ MSA
Vineland – Millville – Bridgeton, NJ MSA
Wilmington – Newark, DE-MD MSA

Portland – Salem, OR-WA CMSA
Portland – Vancouver, OR-WA MSA
Salem, OR MSA

Sacramento – Yolo, CA CMSA
Sacramento, CA MSA
Yolo, CA MSA

San Francisco – Oakland – San Jose, CA CMSA
Oakland, CA MSA
San Francisco, CA MSA
San Jose, CA MSA
Santa Cruz – Watsonville, CA MSA
Santa Rosa, CA MSA
Vallejo – Fairfield – Napa, CA MSA

San Juan – Caguas – Arecibo, PR CMSA
Arecibo, PR MSA
Caguas, PR MSA
San Juan – Bayamon, PR PMSA

Seattle – Tacoma – Bremerton, WA CMSA
Bremerton, WA MSA
Olympia, WA MSA
Seattle – Bellevue – Everett, WA MSA
Tacoma, WA MSA

Washington – Baltimore, DC-MD-VA-WV CMSA
Baltimore, MD MSA
Hagerstown, MD MSA
Washington, DC–MD-VA-WV MSA

** Metropolitan Statistical Areas (MSAs) in bold are already required to participate in pooling in accordance with the national rollout schedule.

APPENDIX C

List of Parties

Numbering Resource Optimization Fourth Report and Order in CC Docket NO. 99-200 and CC Docket NO. 95-116, and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 99-200

A. Parties Filing Comments in Response to *Numbering Resource Optimization Third Order on Reconsideration*

AT&T Wireless
Beacon Telecommunications Advisors, LLC (Beacon)
California Public Utility Commission (California Commission)
Cellular Telecommunications & Internet Association (CTIA)
Independent Companies
Iowa Telecommunications Services, Inc (Iowa Telecom)
Iowa Utilities Board
Michigan Public Service Commission (Michigan Commission)
Mid-Missouri Cellular
National Association of State Utilities Consumer Advocates (NASUCA)
National Telecommunications Cooperative Association (NTCA)
National Exchange Carrier Association, Inc., the National Rural Telecom Association, and The Organization for the Promotion and Advancement of Small Telecommunications Companies (NECA)
New York State Department of Public Service (NYSDPS)
New York State Telecommunications Association, Inc. (NYSTA)
Ohio Public Utility Commission (Ohio Commission)
Rural Cellular Association (Rural Cellular)
TDS Telecommunications Corporation (TDS)
United States Cellular Corporation
United States Telecom Association (USTA)
VoiceStream Wireless (VoiceStream)
Western Wireless
WorldCom

B. Parties Filing Reply Comments in Response to *Numbering Resource Optimization Third Order on Reconsideration*

AllTell
AT&T Wireless
California Commission
CeturyTel
CTIA
Iowa Telecom
Public Utility Commission of Texas (Texas Commission)
Rural Telecommunications Group
Sprint
Texas Statewide Telephone Cooperative
USTA

C. Petition for Reconsideration of the *Numbering Resource Optimization Third Order on Reconsideration*

AT&T

D. Parties Filing Comments to the Petition for Reconsideration of the *Numbering Resource Optimization Third Order on Reconsideration*

Verizon
WorldCom

E. Parties Filing Reply Comments to the Petition for Reconsideration of the *Numbering Resource Optimization Third Order on Reconsideration*

AT&T

SEPARATE STATEMENT OF COMMISSIONER MICHAEL J. COPPS

Re: *Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Telephone Number Portability*, Fourth Report and Order in CC Docket No. 99-200 and CC Docket No. 95-116 and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 99-200

Today we are moving forward to ensure that carriers around the country deploy local number portability. Portability frees consumers from the hassle and financial hardship associated with switching to a new number and allows consumers to take advantage of the latest and most current calling plans offered by the industry. Portability also provides a related benefit—it aids our efforts to conserve numbers.

The progress we make, however, depends on both the good faith efforts of carriers and the vigilance of our state partners. We trust that when consumers demand it, carriers will make requests of other carriers for the provision of local number portability. This is true today for wireline carriers and will become true for wireless carriers later this fall. We also trust that states will monitor closely carrier requests and not hesitate to use the delegated authority we grant them in this Order. I, for one, urge state commissions to step in and set new rules if there is evidence of consumer demand for local number portability that is not being met through carrier requests. As in any other competitive market, consumers who are unhappy or dissatisfied with a provider should be able to pack up and bring their business elsewhere. I expect our rules to deliver such benefits to consumers, but stand willing to revisit the principles we adopt here today if time proves they do not.