

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
)	
Sprint Local Telephone Companies)	Transmittal No. 192
)	
_____)	

AT&T CORP. PETITION TO REJECT OR SUSPEND TARIFF

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TABLE OF CONTENTS

SUMMARY	i
BACKGROUND	3
I. SPRINT FAILS TO DEMONSTRATE THEY ARE SEEKING EXOGENOUS COST RECOVERY SOLELY FOR ELIGIBLE COSTS	4
A. Three-Part Test	
B. Cost Analyses	
1. Timing	
2. Call Routing and Capacity	
3. Telephone Numbers and Reporting	
4. Maintenance	
5. OSS Systems	
6. System Modifications	
7. Number Management Resources	
8. NPAC Revenue Allocation	
II. SPRINT FAILS TO DEMONSTRATE THOUSANDS-BLOCK NUMBER POOLING RESULTS IN A NET COST INCREASE RATHER THAN A NET COST REDUCTION	16
A. Delay In NANP Exhaust	
B. Delay and Avoidance Of Area Code Splits And Overlays	
CONCLUSION	22

EXHIBITS

1. Sprint Costs Improperly Included in its Transmittal No. 192
2. Delay of Capital Expenditures Due to Deferred NANP Exhaust
3. NeuStar's Pooling Time Line by State

SUMMARY

Sprint Local Telephone Companies' ("Sprint") thousands-block number pooling cost recovery filing, proposing a \$ 78.3 million rate increase to recover extraordinary costs, is facially noncompliant with Commission orders, and accordingly should be rejected. At a minimum, the tariff raises substantial questions of lawfulness and should be suspended and set for investigation. Rejection or suspension is particularly appropriate because Sprint's tariff suffers from many of the same flaws as the BellSouth and Qwest thousands-block number pooling tariffs that were suspended and set for investigation only ten days ago, April 1, 2002. Not only does Sprint's tariff suffer from many of the same infirmities, but it also fails to address some of the very issues the Commission cited as causes for suspending the BellSouth and Qwest thousands-block number pooling tariffs. At bottom, Sprint's proposed rate increases do not overcome the Commission's presumption against recovery, do not conform to the specific rules set forth in the Commission's recent Numbering Resource Optimization Orders, fail to reflect the required offset of significant cost reductions achieved by thousands-block number pooling, include costs specifically excluded by Commission rulings, and are not properly supported.

First, Sprint's filing fails to acknowledge, much less overcome, the Commission's presumption against thousands-block number pooling cost recovery. Indeed, Sprint ignores the Commission's direct articulation of very narrowly drawn allowable cost recovery rules and then proceeds to incorrectly apply the mischaracterized rules. Sprint's tariff includes numerous inappropriately claimed exogenous costs and costs clearly excluded by the Commission's rules. These include: costs not directly incurred in implementing thousands-block number pooling; costs incurred prior to the national roll-out; costs incurred for adapting other systems to the presence of

thousands-block number pooling; staffing costs associated with number administration generally; and costs related to inappropriately calculated anticipated traffic growth, among other items.

Second, despite the Commission's recent unambiguous reiteration of its offset requirement, Sprint utterly fails to show that any recoverable exogenous thousands-block number pooling implementation costs exceed the costs that would otherwise have been incurred in the absence of thousands-block number pooling. Sprint thus neglects to address the savings attributable to the delay of the North American Numbering Plan ("NANP") exhaust altogether. Sprint, furthermore, incorrectly calculates and allocates the savings resulting from avoided Area Code or Numbering Plan Area ("NPA") exhaust and understates the savings from delayed or avoided NPA splits and overlays. As AT&T shows, had Sprint correctly accounted for these avoided costs, the savings offset would completely eliminate its claimed exogenous adjustments.

Because Sprint has failed to rebut the Commission's presumption that no additional cost recovery is justified, it does not qualify for exogenous recovery under the Commission's standards. The obvious errors and omissions discovered in the course of "streamlined" review, coupled with a disregard of explicit Commission rulings, counsel strongly in favor of rejection or the closer scrutiny possible in a full investigation.

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Pursuant to Section 1.773 of the Commission's Rules, 47 C.F.R. § 1.773, the Commission's *Third NRO Order*¹ and the Commission's recent *Suspension Order*² AT&T Corp. ("AT&T") hereby requests that the Commission reject, or suspend for five months and investigate, the above-captioned tariff filing by Sprint seeking \$78.3 million in alleged exogenous extraordinary costs incurred for the implementation of thousands-block number pooling.

It is clear on the face of the instant filing that it fails to comply with the Commission's orders and accordingly it should be rejected.³ At a minimum, the tariff raises

¹ *In the Matter of Numbering Resource Optimization*, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, FCC 01-362, rel. December 28, 2001 ("*Third NRO Order*").

² Order, *In the Matter of Bell South Tariff* FCC No. 1 Transmittal No. 623, *Qwest Tariff* FCC No. 1 Transmittal No. 120, WCB/PPD No. 02-08, DA 02-747, rel April 1, 2002 ("*Suspension Order*").

³ A tariff is subject to rejection when it is prima facie unlawful, in that it demonstrably conflicts with the Communications Act or a Commission rule, regulation or order. *See, e.g., American Broadcasting Companies, Inc. v. AT&T*, 663 F.2d 133, 138 (D.C. Cir. 1980); *MCI v. AT&T*, 94 F.C.C.2d 332, 340-341 (1983). Suspension and investigation are appropriate where a tariff raises substantial issues of lawfulness. *See AT&T (Transmittal No. 148)*, Memorandum Opinion and Order, 56 RR2d 1503 (1984); *ITT (Transmittal No.*

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substantial questions of lawfulness that cannot be dispelled in the highly abbreviated “streamlined” process afford by this proceeding.

Although AT&T believes that the Commission’s decision to allow incumbent local exchange carriers (“ILECs”) to recover pooling costs through access charges is unfair and anticompetitive, its concerns were somewhat alleviated by the *Third NRO Order’s* insistence that the amounts involved in any such recovery would be minimal, if there were any at all.⁴ Yet, Sprint’s filing to recover number pooling costs, totaling almost \$80 million, certainly does not seek recovery of minimal, extraordinary costs. These requests for exogenous adjustments are particularly striking given the Commission’s presumption that no additional recovery for thousands-block number pooling is justified.⁵ As the Commission made abundantly clear, the presumption could only be rebutted if “extraordinary” pooling implementation costs met a stringent three-part test and exceeded all the savings generated through pooling.

As shown in Section I, Sprint fails to carry its burden of proof and to demonstrate that it is seeking exogenous recovery solely for eligible costs. At the outset, a number of the costs are clearly ineligible. Thus, certain costs are not eligible because they have already been recovered through Local Number Portability (“LNP”) cost recovery mechanisms or other numbering administration procedures. Furthermore, the lack of adequate supporting detail for many of the other charges makes it impossible to determine whether these costs meet the narrowly-defined set

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2191), 73 F.C.C.2d 709, 716, n.5 (1979) (citing *AT&T (Wide Area Telecommunications Service)*), 46 F.C.C.2d 81, 86 (1974).

⁴ *Third NRO Order* ¶¶ 25, 38-41.

⁵ *Third NRO Order* ¶ 39; *See Suspension Order* ¶¶ 2, 5.

of costs that qualify as eligible. Moreover, as shown in Section II, Sprint further fails to demonstrate that thousands-block number pooling results in a net cost increase rather than a net cost reduction.⁶ Instead, all facts point to a net cost reduction that would wipe out entirely Sprint's claimed exogenous adjustments. At the very least, by understating the offsetting savings, it is evident that Sprint's proposed rate increases far exceed the costs it might potentially be entitled to recover under the *Third NRO Order*.

BACKGROUND

As AT&T set forth in its recent petition to reject similar tariffs filed by BellSouth and Qwest,⁷ as established in the Commission's Numbering Resource Optimization docket generally, and as succinctly articulated in the *Third NRO Order*, the Commission has unambiguously established that "the costs of numbering administration are generally and appropriately treated as an ordinary cost of doing business."⁸ The Commission embodied this and many other factors in its clear articulation of a presumption against cost recovery for thousands block pooling activities.⁹ Such a presumption is not surprising given the cost recovery already

⁶ See *Suspension Order* ¶ 6.

⁷ AT&T respectfully requests that its prior submissions in the proceeding resulting in the *Suspension Order* be incorporated into the current proceeding. See Petition of AT&T Corp., *In the Matter of Bell South Tariff FCC No. 1 Transmittal No. 623, Qwest Tariff FCC No. 1 Transmittal No. 120*, filed March 25, 2002.

⁸ *Third NRO Order* ¶ 37.

⁹ "Because recovery for numbering administration expenses is already included in basic LEC compensation, [] LECs seeking extraordinary recovery of thousands-block number pooling costs in the form of an exogenous adjustment to their price cap formula must overcome a rebuttable presumption that no additional recovery is justified." *Third NRO Order* ¶ 39.

provided for in LNP.¹⁰ For this reason, and others, the Commission concluded that “many of the costs associated with thousands-block number pooling are ordinary costs for which no additional or special recovery is appropriate.”¹¹

Sprint’s filing is, in numerous respects, flatly inconsistent with the Commission’s rulings. Prompt and unequivocal action by the Commission is necessary to address the many serious errors underlying Sprint’s national thousands-block number pooling access charge tariff. Accordingly, AT&T respectfully urges the Commission to *reject* or, at a minimum, suspend and investigate the unsupported and inflated tariff rates for the reasons detailed below.

I. SPRINT HAS FAILED TO DEMONSTRATE THAT IT IS SEEKING EXOGENOUS COST RECOVERY SOLELY FOR ELIGIBLE COSTS.

Sprint’s filing fails to acknowledge, much less overcome, the Commission’s rebuttable presumption, that it is not entitled to recovery of thousands-block number pooling costs.¹² Sprint’s failure to carry the Commission’s established burden of proof provides a sufficient basis for rejecting or suspending Sprint’s tariff.

¹⁰ The Commission said, when discussing some of the preliminary thousands-block number pooling cost studies submitted in the numbering resource optimization docket CC 99-200, “[o]ur preliminary review of these initial cost studies indicates that some carriers may have included costs that are inappropriate under the test for extraordinary recovery that we established in the *First Report and Order*. Some of the cost items included are very similar to cost claims rejected in the *LNP Tariff Investigation Orders*.” (Long-Term Number Portability Tariff Filings, Ameritech Operating Companies, et al., 14 FCC Rcd 11883 (1999); Long-Term Number Portability Tariff Filings, 14 FCC Rcd 11983 (1999) (collectively *LNP Tariff Investigation Orders*)). *Third NRO Order* ¶ 42.

¹¹ See *Third NRO Order* ¶ 25.

¹² This omission is particularly problematic given the Commission’s very recent reiteration of the presumption in the *Suspension Order*. See *Suspension Order* at p. 2.

A. Three-Part Test

To be eligible for the extraordinary recovery, thousands-block number pooling costs must satisfy each of three criteria. “First, only costs that would not have been incurred ‘but for’ thousands-block number pooling are eligible for recovery. Second, only costs incurred ‘for the provision of’ thousands-block number pooling are eligible for recovery. Finally, only ‘new’ costs are eligible for cost recovery.”¹³

The Commission has interpreted the first two criteria of the three-prong test as follows. “Only costs that were incurred ‘for the provision of’ thousands-block number pooling are eligible for recovery through this extraordinary mechanism, but these must also be costs that would not have been incurred ‘but for’ thousands-block number pooling. This means that only the demonstrably incremental costs of thousands-block number pooling may be recovered.”¹⁴ “[C]osts specifically incurred in the narrowly defined thousands-block pooling functions are those incurred specifically to identify, donate and receive blocks of pooled numbers, to create and populate the regional databases and carriers’ local copies of these databases, and to adapt the procedures for querying these databases and for routing calls so as to accommodate a number pooling environment.”¹⁵

By contrast, “costs that carriers incur as an ‘incidental consequence’ of thousands-block number pooling implementation are not incurred specifically in the provision of narrowly defined thousands-block pooling functions. Thus, costs incurred to adapt other systems to the

¹³ See *Third NRO Order* ¶ 43.

¹⁴ See *Third NRO Order* ¶ 44.

¹⁵ See *Third NRO Order* ¶ 44.

presence of thousands-block number pooling are not incurred for the provision of thousands-block number pooling and are ineligible for recovery. Examples of such systems include those for maintenance, repair, billing and other functions not directly involved in the provision of thousands-block number pooling. These systems are not part of the provisioning of thousands-block number pooling. Similarly, costs incurred to facilitate the continued provision of other services in the presence of number pooling are an ‘incidental consequence’ and are not eligible for recovery. For example, database-related costs such as those involving service control points (SCPs) that support services such as third-party billing or calling card calls are not eligible even though these costs would not have been incurred but for number pooling.”¹⁶

The third prong of the Commission’s test requires that thousands-block number pooling costs must also be “new” costs in order to qualify for exogenous recovery.¹⁷ This means that costs incurred prior to the implementation of thousands-block number pooling are ineligible embedded investments already subject to recovery through standard mechanisms. “Costs are not ‘new’ and thus are ineligible for extraordinary treatment as thousands-block number pooling charges, if they previously were incurred, are already being recovered under ordinary recovery mechanisms, or are already being recovered through the number portability end-user charge or query charge.”¹⁸

¹⁶ See *Third NRO Order* ¶ 45.

¹⁷ See *Third NRO Order* ¶ 46.

¹⁸ See *Third NRO Order* ¶ 46.

B. Cost Analyses

It appears that Sprint included costs in its exogenous adjustment that are not eligible for recovery under the three-prong test.¹⁹ Further, Sprint has not provided sufficient cost justification and other support to permit a full assessment of the reasonableness of its proposed exogenous cost adjustment. Moreover, Sprint seeks recovery of costs associated with non-recoverable numbering administration or LNP functions – potentially setting the stage for double recovery.²⁰ At the very least, it is evident that Sprint’s proposed rate increase far exceeds the costs that might appropriately be recovered under the *Third NRO Order*.

1. Timing

The Commission has expressly held that costs incurred prior to the implementation of national thousands-block number pooling are *not* eligible for exogenous cost treatment.²¹ Yet, contrary to the Commission’s explicit instructions, Sprint included costs incurred beginning in 1998, at least two years before the first nationally standardized pooling effort in California’s 310 – NPA, which commenced on March 18, 2000.²² These costs are expressly excluded from recovery,

¹⁹ See Exhibit 1; Sprint Costs Improperly Included in its Transmittal No. 192.

²⁰ See *Third NRO Order* ¶ 46.

²¹ See *Third NRO Order* ¶ 46. “Costs are not ‘new,’ and thus are ineligible for extraordinary treatment as thousands-block number pooling charges, if they previously were incurred, are already being recovered under ordinary recovery mechanisms, or are already being recovered through the number portability end-user charge or query charge.” *Id.* It is clear that, in the ordinary course of business, Sprint has recovered any costs incurred in 1998, 1999, and 2000. See FCC Interstate Rate of Return Summary, Years 1991 through 2000, which reports that no Sprint operating entity earned less than 12.55%, 15.92%, and 18.88% for periods beginning in 1998.

²² Sprint Transmittal No. 192, *Description and Justification*, p. 17. (In addition to including these early costs Sprint fails to show how these expenditures are used to derive the proposed revenue requirement. See *Description and Justification* Chart 2B.) The

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and Sprint's tariff should be rejected or suspended on this basis alone.

Even for costs incurred after March 18, 2000, the Commission made clear that costs incurred prior to the Commission-established implementation date of March 15, 2002 for the national number pooling program²³ must be disallowed unless they were incurred solely for national pooling, as opposed to state pooling trials.²⁴ Furthermore, any legitimate thousands-block number pooling costs associated with state trials must be recovered in state proceedings.²⁵ Yet, Sprint has not demonstrated that any of their early expenditures were incurred solely to meet the federal mandate.²⁶ Given the vast number of state commissions in Sprint's regions that obtained delegated authority to conduct state-specific thousands-block number pooling trials, the

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thousands-block number pooling in California's 310 – NPA, implementing the national technical requirements newly adopted in the *First NRO Order* (¶ 181), established a benchmark date (March 18, 2000) for the beginning of the first nationally standardized pooling effort. Any costs claimed before this benchmark date are undoubtedly ineligible for recovery under the federal cost recovery mechanism.

²³ “*The Common Carrier Bureau Announces the First Quarter Schedule for National Thousands-Block Number Pooling*,” Public Notice, DA 01-3019, released December 28, 2001, Attachment A. *See also Third NRO Order* n.19.

²⁴ *Third NRO Order* ¶¶ 26-29.

²⁵ “When carriers have incurred costs directly related to thousands-block number pooling at the state level prior to the implementation of national thousands-block pooling, the advancement costs of state-specific deployment should be attributed to the state jurisdiction. ...any costs attributable to advance deployment at the state level will be subject to state recovery mechanisms. *Third NRO Order* ¶ 28.

²⁶ The Commission did not adopt a mandatory requirement for thousands-block pooling until the *First NRO Order*, which was released on March 31, 2000. *In the Matter of Numbering Resource Optimization*, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 99-200, FCC 00-104, released March 31, 2000, ¶ 116 *et seq.* (“*First NRO Order*”). Therefore, Sprints inclusion of costs dating back to 1998 demonstrates that Sprint is attempting to recover state, not federal, pooling costs, with interest. *See Sprint Transmittal No. 192, Description and Justification*, pp. 16-20.

Commission cannot presume any of the pre March 2002 claimed costs were incurred solely for national pooling purposes.²⁷ Indeed, Sprint previously stated that it implemented state-directed trials in 15 of the 18 states in which it conducts operations.²⁸ Sprint's failure to provide information regarding its state trial activities and an allocation between state and national costs further exemplifies the inadequacies of its filing.

2. Call Routing and Capacity

Similarly, Sprint has included numerous costs that are not *solely* related to the provision of thousands-block number pooling. For example, Sprint asserts that a "great deal of

²⁷ See Exhibit 3; NeuStar's Pooling Time Line by State. See also, e.g., In the Matter of Florida Public Service Commission Petition to Federal Communications Commission for Expedited Decision for Grant of Authority to Implement Number Conservation Measures, 14 FCC Rcd 17506, 17510 (1999) (granting the Florida Public Service Commission authority to institute thousands block pooling); In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 15 FCC Rcd 23371 (2000) (delegating number pooling authority to the state utility commissions in Arizona, Colorado, Iowa, Nebraska, North Carolina, Oregon, Utah, Washington, Tennessee); Id., 16 FCC Rcd 3479, 3488-89 (2001) (granting the Louisiana Public Service Commission thousands-block number pooling authority); Id., 16 FCC Rcd 5474, 5485-86, 5488 (2001) (delegating numbering pooling authority to Minnesota and Tennessee); Washington Utilities and Transportation Commission's Second Amended Petition for Additional Delegated Authority to Implement a Number Pooling Trial in Area Code 509, 16 FCC Rcd 7649 (2001); (granting the Washington Utilities and Transportation Commission number pooling authority); In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 16 FCC Rcd 15842 (2001) (granting thousands-block number pooling authority to the North Carolina Utility Commission); Florida Public Service Commission Petition for Expedited Decision for the Release of a New Area Code to Provide Relief for the 561 Numbering Plan Area, 16 FCC Rcd 15860 (delegating pooling authority to the Florida Public Service Commission); In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 16 FCC Rcd 18862 (2001) (granting the Public Service Commission of South Carolina and the Florida Public Service Commission additional pooling authority).

²⁸ Sprint Ex Parte, July 24, 2001, in CC Docket No. 99-200 at p. 3, (filed with the Commission on July 25, 2001).

incremental operation systems programming and development is necessary to ensure number identification and assignment, pool donations, and call routing” can occur under a thousands-block number pooling.²⁹ Call routing cannot be an incremental cost of thousands-block number pooling. Calls currently processed in a local number portability environment (the only environment where thousands-block number pooling can be implemented) already must be checked against a table of portable NPA-NXXs to determine the correct routing of the call. Specifically, every call is checked to determine whether it is intended for a portable NXX and only then is additional routing information obtained from the database and the call routed to the proper switch. Thousands-block number pooling does not impact the existing LNP routing procedure, therefore, no new or additional call routing costs can be recovered.

Sprint also included the costs of increased capacity associated with its SS7 network, because Sprint asserts that an increase in query volume will result from the implementation of thousands-block number pooling. While it may be true that the implementation of thousands-block number pooling will necessitate an increase to the size of the database, it will have no impact on the number of queries. Indeed, as noted above, all calls are currently queried if they are destined for portable NXXs – the only environment capable of supporting thousands-block number pooling.³⁰

3. Telephone Numbers and Reporting

Sprint further contends that it will incur administrative costs for 28 million

²⁹ Sprint Transmittal No. 192, *Description and Justification*, p. 2.

³⁰ Sprint Transmittal No. 192, *Description and Justification*, p. 6. additional STPs would be required as traffic volumes grow irrespective of whether thousands-block number pooling is implemented.

telephone numbers assigned to Sprint.³¹ Certainly, Sprint will not be required to review and inventory all 28 million of its telephone numbers, but only those numbers that may be subject to thousands-block number pooling. Sprint further asserts that it must identify, donate, and receive blocks of pooled numbers, which includes the costs of auditing the number inventory, Numbering Resource Utilization and Forecasts (“NRUF”), and the creation of service orders within blocks donated to the Number Pool administrator, which are subsequently donated, back to Sprint.³² The NRUF reports, however, are not incremental to thousands-block number pooling, because the Commission ordered utilization and forecast reporting in the *First NRO Order* (¶¶ 51-73).

4. Maintenance

In addition, Sprint includes costs for adaptation or maintenance of other systems to the presence of thousands-block number pooling, which are not incurred “for the provision of” thousands-block number pooling” and thus are not eligible for recovery.³³ These incidental costs include adding memory to accommodate call processing for pooled numbers, which should not significantly differ from call processing for LNP.

5. OSS Systems

The Operations Support Systems expenses inadequately described by Sprint include unspecified changes to systems that range from Customer Service and Customer Record applications, to Service Order Entry and Audit Process systems.³⁴ In no instances does Sprint

³¹ Sprint Transmittal No. 192, Description and Justification, p. 5.

³² Sprint Transmittal No. 192, Description & Justification p. 7.

³³ See Sprint Transmittal No. 192, *Description and Justification*, pp. 6-7.

³⁴ See *Suspension Order*’s discussion of lawfulness of BellSouth and Qwest’s proposed OSS cost recovery elements. Id. at ¶ 9.

describe systems specifically designed for the provision of thousands-block number pooling. The systems Sprint describes (albeit without requisite detail) often appear to be operating at customer-specific or telephone number-specific levels. The incremental changes necessary to expand these systems to include, for instance, "Addition of a number pooling indicator" or a "assigned number classification" to CIDS,³⁵ appear to be single field additions or modifications rather than system rewrites or module replacement.

Other number optimization requirements such as NRUF generation and population, Sequential Number Assignment ("SNA") mandates, or Intra-Service Provider porting could be the major reason to modify Sprint's OSS's rather than thousands-block number pooling. For instance, the CODARS process³⁶ must have been dramatically altered to accommodate Commission-ordered changes in number categories, NRUF generation and identification requirements, block contamination in support of SNA implementation, and multiple switch provisioning to ensure high utilization of numbering resources. Thousands-block number pooling drives none of the modifications required to accommodate these functions, but each of the changes, required for other functions, could allow for a related redesign for thousands-block number pooling. Without understanding the breadth of the changes to systems undertaken as a whole, it is impossible to know if thousands-block number pooling was the causer of the cost or just a convenient field change made during a major numbering-driven system overhaul. Sprint has not demonstrated that

³⁵ Sprint Transmittal No. 192, *Description and Justification*, p. 10.

³⁶ Sprint Transmittal No. 192, *Description and Justification*, p. 9.

its costs claimed for OSS systems adaptation and maintenance are either for the provision of thousands-block number pooling or are a direct cost of pooling.³⁷

6. System Modifications

Another category of incidental costs that Sprint attempts to recover are those costs it associates with the modification of systems to remove restrictions on whether a single switch can be provisioned with multiple NPA/NXX numbers.³⁸ Call routing, however, is based on the telephone number no matter where the switch is located. The costs to allow single NPA/NXX switches to handle more NPA/NXX combinations may well be attributable to internal number management and not the provision of thousands-block number pooling. In short, if rate center number resources are constrained, Sprint would be expected to utilize additional NPA/NXX combinations to manage their numbers among switches serving the same rate center regardless of the presence of thousands-block number pooling. The Commission's general numbering resource optimization efforts like utilization thresholds, not thousands-block number pooling, may require carriers to operate in an environment where multiple switches share numbers within a single NXX. Costs associated with these types of modifications cannot be recovered under the Commission's thousands-block number pooling cost recovery mechanism.

7. Number Management Resources

Further, Sprint's assertion that additional staffing for Service Order Entry, Switch Audits, and various testing, training and provisioning procedures is "for the provision of thousands-block number pooling" is without merit. Sprint contends that it should be able to

³⁷ See *Third NRO Order* ¶¶ 43-46.

³⁸ Sprint Transmittal No. 192, Description and Justification, p. 6.

recover the staffing and network costs associated with: the management of the implementation of number pooling; administering and monitoring reporting requirements related to number pooling; preparing and analyzing data related to thousands-blocks that can be donated to a pool; the repair processes related to problems with pooling; and training personnel to handle the changes required by pooling.³⁹ The vast bulk of these costs, however, are associated with general numbering administration and number conservation, not specifically the provisioning of thousands-block number pooling. Indeed, all code-holders today, regardless of whether or not they are pooling-capable, must manage their numbering resources at the sub-NXX level and file NRUF reports with the Commission.⁴⁰ As noted above, the Commission has recognized that “recovery for numbering administration expenses is already included in basic LEC compensation.”⁴¹ Sprint has not met its burden in this regard.

Further, Sprint seeks to assign various administrative and overhead costs, including building costs, executive and legal costs to thousands-block number pooling. These costs relate to the operation of telecommunications business in the ordinary course, and not specifically to the provision of thousands-block number pooling.

8. NPAC Revenue Allocation

Sprint seeks to incorrectly allocate its Numbering Portability Administration Center (“NPAC”) costs to thousands-block number pooling. For example, Sprint “calculated its share of NPAC thousands-block number pooling costs based on current, FCC approved, end-user revenue

³⁹ See, e.g. Sprint Transmittal No. 192, Description and Justification, p. 8.

⁴⁰ 47 C.F.R § 52.15(f)(6)(i).

⁴¹ See *Third NRO Order* ¶ 39.

percentages.” Sprint then proceeds to allocate these costs internally based on the “relative database queries.”⁴² To the extent there are incremental industry thousands-block number pooling costs associated with NPAC (Sprint has not provided support for this proposition), these costs are *incurred* based on revenues, and therefore should be *allocated*, based on the relative share of incremental end-user revenue that might be associated with thousands-block number pooling. Otherwise, Sprint’s faulty allocation moves costs from long distance operations to local operations under the guise of thousands-block number pooling. In the *First NRO Order*, the Commission noted with regard to number portability cost recovery that “carriers already allocate general overhead costs to their rates for other services, and allowing general overhead loading factors ... might lead to double recovery.”⁴³ It is unlikely that there will be significant new NPAC overhead costs associated with thousands-block number pooling.

Finally, Sprint included costs with little or no related cost support. For example, Sprint includes a host of costs it labels “Incremental Support Labor associated with Number Pooling” and asserts, without support, that these costs are recoverable.⁴⁴ Remarkably, Sprint provided no detailed breakdown of the OSS costs it proffers; notwithstanding the OSS costs constitute a large portion of the total costs Sprint claims.⁴⁵ In the *LNP Cost Classification Order*, the Commission criticized the cost support by ILECs because it was “inadequate to enable the Commission, or interested parties, to ascertain that only eligible LNP costs had been included in

⁴² Sprint Transmittal No. 192, *Description and Justification*, p. 5.

⁴³ *First NRO Order* ¶ 224.

⁴⁴ Sprint Transmittal No. 192, *Description and Justification*, Exhibit 2, page 1 of 1.

⁴⁵ Sprint Transmittal No. 192, *Description and Justification*, Exhibit 3, page 1 of 2; *See also Suspension Order* ¶ 9.

the end-user and query service charges.”⁴⁶ As with LNP, due to the abject lack of support, neither the Commission nor potential commenters have had a meaningful opportunity to evaluate the vast majority of Sprint’s claimed thousands-block number pooling costs.

At bottom, Sprint has failed to establish the costs it seeks to recover are incurred only for narrowly defined thousands-block number pooling functions as provided for by the Commission’s three-part test. Sprint, therefore, has failed to overcome the rebuttable presumption against exogenous recovery for its alleged thousands-block number pooling costs.

II. SPRINT FAILS TO DEMONSTRATE THOUSANDS-BLOCK NUMBER POOLING RESULTS IN A NET COST INCREASE RATHER THAN A NET COST REDUCTION.

Apart from the deficiencies identified above, it is apparent Sprint did not make a credible showing that it will experience a net cost increase rather than a cost reduction as a result of implementing thousands-block number pooling, as required under the Commission’s *Third NRO Order*.⁴⁷ Specifically, Sprint has not shown that the costs for which it seeks exogenous treatment “exceed the costs that would have been incurred had the carrier engaged in an area code split, overlay or other numbering relief [including replacement of the existing NANP] that would otherwise have been required in the absence of pooling.” As the Commission has unambiguously held, only costs that constitute a *net increase* qualify for exogenous price cap treatment.⁴⁸

⁴⁶ *In the Matter of Telephone Number Portability Cost Classification Proceeding*, Memorandum Opinion and Order, 13 FCC Rcd 24,495, ¶ 19 (1998) (“*LNP Cost Classification Order*”).

⁴⁷ *See Third NRO Order* ¶ 40; *See also Suspension Order* ¶ 6.

⁴⁸ *See Third NRO Order* ¶ 40.

A. Delay in NANP Exhaust

As the Commission previously observed, huge expenditures estimated to be in the range of \$50 billion to \$150 billion on a LEC industry-wide basis will eventually be required to redo the entire North American Numbering Plan (“NANP”).⁴⁹ In 1999 – prior to thousands-block number pooling – the North American Numbering Council (“NANC”) estimated that NANP exhaust was likely to occur in 2005 to 2016.⁵⁰ Now, however, with the implementation of thousands-block number pooling, NANP exhaust is not likely to occur before 2025 to 2034, an extension of approximately 18 to 20 years.⁵¹ As shown in Exhibit 2, this delay in capital expenditures will result in savings of \$19 billion to \$64 billion for the industry.

Despite the enormous savings that the ILEC industry stands to realize as a result of thousands-block number pooling and Sprint’s own advocacy on this precise point,⁵² it is apparent Sprint failed to offset any savings, let alone their, *pro rata* share of these cost savings against the thousands-block number pooling implementation costs for which they seek exogenous treatment. These savings to individual ILECs are substantial. As shown in Exhibit 2, Sprint’s share of the NANP expansion savings is estimated to be in the range of \$817 million to \$2.7 billion. Yet, Sprint did not include *any* cost savings associated with delay of NANP exhaust. Had Sprint properly netted the eligible costs of thousands-block number pooling implementation against its

⁴⁹ See *id.* n.8, *citing* NANC Meeting Minutes, February 18-19, 1999, at 13 (In 1999, some industry members suggested that the cost to expanding the NANP by adding one or more digits could be between \$50 to \$150 billion.)

⁵⁰ See *id.* n.2, *citing* NANPA Report to the NANC, October 16-17, 2001, at 8.

⁵¹ See *id.* n.2, *citing* NANPA Report to the NANC, October 16-17, 2001, at 8.

⁵² See Sprint’s July 24, 2001 Ex Parte Presentation in CC Docket No. 99-200 at p. 2 (filed with the Commission on July 25, 2001); Where, in the very first bullet point of the presentation Sprint states: “Number pooling helps delay NANP exhaust.”

tremendous overall cost saving benefits, Sprint would not be entitled to any exogenous adjustment whatsoever.

B. Delay and Avoidance of Area Code Splits and Overlays

Although Sprint did include savings from delay and avoidance of area code splits and overlays⁵³ as a result of implementing thousands-block number pooling, its cost savings of *Redacted* is significantly *understated* for the reasons explained below. Sprint thus overstated its extraordinary thousands-block number pooling costs by millions of dollars.

First, Sprint stated that its total costs associated with the nine area code splits and overlays scheduled in its territories over the next two years is *Redacted*, an average of about *Redacted* per area code split or overlay.⁵⁴ Sprint appears to have grossly understated these costs. Both BellSouth and Qwest, in their thousands-block number pooling filings, computed an average cost of between \$2.2M and \$2.5M per area code split and overlay.⁵⁵ It is highly unlikely that the cost Sprint incurs for implementing an area code split or overlay *Redacted* of the cost that both BellSouth and Qwest incur for exactly the same work. This discrepancy is even more astounding because Sprint assumed that all of its area code splits and overlays will be splits, which is the more costly of the two alternatives, and, according to Sprint, “this assumption maximizes anticipated

⁵³ Costs to implement area code splits and overlays would include, but are not limited to, educating consumers industry-wide of these area code changes and notifying customers of these changes.

⁵⁴ Sprint Transmittal No. 192, *Redacted*.

⁵⁵ BellSouth submitted in its filing that the total costs for its six area code splits and overlays that would be delayed was \$14.9 million, an average of \$2.5 million per area code split or overlay. (BellSouth Transmittal No. 623, Attachment C, NPA Relief Cost Summary.) Similarly, Qwest submitted in its filing that the total costs for its four area code splits and overlays that would be delayed was \$8.7 million, an average of \$2.2 million per area code split or overlay. (Qwest Transmittal No. 120, Chart 2b.)

cost savings.”⁵⁶ If Sprint had computed the cost for each of its area code splits or overlays to be between \$2.2M and \$2.5M, similar to the cost BellSouth and Qwest computed, then Sprint’s total costs for its nine area code splits and overlays would have been \$20M, and its cost savings for the delay of these splits would have been \$2.3M instead of *Redacted*.⁵⁷

Second, Sprint computed its cost savings as a result of the delay in these nine area code splits and overlays by multiplying the total computed costs of these splits, *Redacted*, by *Redacted*.⁵⁸ By multiplying the costs of the area code splits and overlays by only the cost of money for *Redacted*, Sprint has assumed thousands-block number pooling will only delay the implementation of the nine area code splits and overlays for *Redacted*. Again, for illustrative purposes, comparing this to BellSouth and Qwest, whose length of delay is also questionable, this is significantly less than what either of these ILECs used in their calculations. BellSouth assumed that all of its area code splits and overlays would be delayed for three years, and Qwest assumed a delay of its area code splits and overlays of two and one-half years.⁵⁹ By assuming only *Redacted* delay in its area code splits and overlays, Sprint significantly understated its cost savings.⁶⁰ For

⁵⁶ Sprint Transmittal No. 192, *Description & Justification*, p. 14.

⁵⁷ Using Sprints methodology of computing its cost savings for delay of area code splits and overlays results in \$20M * *Redacted*.

⁵⁸ Sprint Transmittal No. 192, *Redacted*.

⁵⁹ BellSouth Transmittal No. 623, Cost Development, p. 5. Qwest Transmittal No. 120, Chart 2b, one of the NPA splits/overlays shows less than two and one-half years.

⁶⁰ State commissions have noted that trials of thousands-block number pooling have shown how extensive the delay in required area code splits or overlays may be. A Maine Public Utilities Commission news release on May 27, 1999, states “For example, the 847 area code in Illinois is the only area code in the country where mandatory thousand block pooling has been implemented. NANPA’s new forecast shows that the exhaust date for 847 was moved from the third quarter of 1998 to the second quarter of 2029 - a difference of

(footnote continued on next page)

example, had Sprint computed its costs for area code splits and overlays to be between \$2.2M and \$2.5M, as identified above, and had Sprint assumed a three year delay in its nine scheduled area code splits and overlays identified in this filing, Sprint's total cost savings would have been approximately \$7.0M rather than the *Redacted* it filed.

In addition to the above items, Sprint also understated its cost savings by not including all of the area code splits and overlays that will be delayed as a result of thousands-block number pooling. The area code splits and overlays that Sprint used in computing their savings were limited to those scheduled to be completed by 2004.⁶¹ It appears Sprint chose to limit its savings calculations to the same time period as the thousands-block number pooling cost recovery period.⁶² The *Third NRO Order* does *not* establish a two-year offset limit.⁶³ To the contrary, it is reasonable to assume that *all* scheduled area code splits and overlays in those MSAs implementing thousands-block number pooling will be either postponed or avoided. Accordingly, Sprint should have included an analysis showing the savings for each of the area codes in the designated MSAs as a result of implementation of thousands-block number pooling regardless of when the area code split or overlay would have been implemented. For example, currently, fifty-one of the area codes in those MSAs where Sprint is required to implement thousands-block number pooling are

(footnote continued from previous page)

over 31 years. Clearly, thousand block pooling can be an effective number conservation tool.”

⁶¹ Sprint Transmittal No. 192, *Description and Justification*, p. 14.

⁶² Sprint Transmittal No. 192, *Description and Justification*, p. 14.

⁶³ See also *Suspension Order* ¶ 7.

scheduled for a split or overlay in the next seven years.⁶⁴ Clearly, these area code splits scheduled beyond the next two years will also be delayed as a result of thousands-block number pooling, and the cost savings from the delay of these additional area code splits and overlays should be included in Sprint's calculations as well. By arbitrarily limiting the time interval for cost savings associated with delayed area code splits and overlays, Sprint significantly understated the savings of thousands-block number pooling.⁶⁵

Another component of cost savings calculations that Sprint overlooked is the savings Sprint will enjoy from the delay of subsequent area code splits and overlays, which occur after the initial area code split or overlay reaches its exhaust, as well as the cost avoidance of future splits and overlays of its new area codes. These new area codes will have their line numbers managed under thousands-block number pooling from the beginning. This will result in extending the life of these new area codes for many, many years and, in some cases, complete avoidance of the cost of future area code splits and overlays.⁶⁶ Yet, Sprint has only included the cost savings for extending the life of its existing area codes. Sprint should be considering not just the delay of its

⁶⁴ 2001 NRUF and NPA Exhaust Analysis June 1, 2001 update shows 51 area codes scheduled to exhaust between 1Q2002 and 4Q2008 where Sprint is located and required to implement thousands-block number pooling.

⁶⁵ Sprint also violated the Commission's guidelines for allocating exogenous cost recovery correctly over the two-year recovery window. The Commission instructed ILECs to spread the exogenous cost recovery over a two-year period. (*See Third NRO Order*, ¶ 41) Sprint filed to recover the majority of its thousands-block number pooling exogenous costs, \$52.8 million (or 67% of its total claimed exogenous cost of \$78.3 million), in the first year, therefore not correctly spreading its recovery according to Commission rule (Sprint Transmittal No. 192, TRP Charts, EXG-1, page 2 of 2, line 160, column K).

⁶⁶ The existing area codes will not be extended as long as new area codes because the existing area codes will only be managing line numbers using thousands-block number pooling for the remaining unused line numbers.

existing area codes, but also the complete cost avoidance of future splits and overlays of these new area codes.

Finally, Sprint has not provided any cost support or explanation regarding its “Savings Associated with the Deferral of NPA splits.”⁶⁷ As a result, AT&T cannot verify that Sprint has correctly computed its actual costs of implementing an area code split or overlay. Because these costs are the starting point used to compute the savings Sprint will receive from thousands-block number pooling, these area code split or overlay costs must be properly supported.

Sprint failed to establish that it will experience a net cost increase as a result of thousands-block number pooling. As such, it fails to qualify for exogenous recovery under the Commission’s standards.

⁶⁷ Sprint Transmittal No. 192, Exhibit 7, shows only its “Costs associated for 9 NPA splits.”

CONCLUSION

For the reasons stated above, the Commission should *reject* or, at a minimum, suspend and investigate Sprint's filing.

Respectfully submitted,

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April 11, 2002

CERTIFICATE OF SERVICE

I, Karen Kotula, do hereby certify that on this 11th day of April, 2002, a copy of the foregoing "Petition of AT&T Corp." was served by facsimile and U.S. first class mail, postage prepaid, on the parties named below.

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